

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5 IN RE: NATIONAL : MDL NO. 2804
6 PRESCRIPTION OPIATE :
7 LITIGATION :

7 : CASE NO.
8 THIS DOCUMENT : 1:17-MD-2804
9 RELATES TO ALL CASES:

 : Hon. Dan A.
 : Polster

10 - - -

 Thursday, December 13, 2018

11 - - -

12 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
13 CONFIDENTIALITY REVIEW

14 - - -

15 Videotaped deposition of
16 SHAUN ABREU, taken pursuant to notice,
17 was held at the law offices of Locke
18 Lord, LLP, Brookfield Place, 200 Vesey
19 St., 20th Floor, New York, New York
20 10281-2101, beginning at 9:06 a.m., on
21 the above date, before Amanda Dee
22 Maslynsky-Miller, a Certified Realtime
23 Reporter.

24 - - -

23 GOLKOW LITIGATION SERVICES
24 877.370.3377 ph| 917.591.5672 fax
 deps@golkow.com

| | |
|---|--|
| <p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 MOTLEY RICE LLC</p> <p>4 BY: DONALD A. MIGLIORI, ESQUIRE</p> <p>5 KATHLEEN LUCAS, PARALEGAL</p> <p>6 28 Bridgeside Boulevard</p> <p>7 Mount Pleasant, SC 29464</p> <p>8 (843) 216-9000</p> <p>9 Dmigliori@motleyrice.com</p> <p>10 Representing the Plaintiffs</p> <p>11</p> <p>12</p> <p>13 LOCKE LORD, LLP</p> <p>14 BY: C. SCOTT JONES, ESQUIRE</p> <p>15 2200 Ross Avenue</p> <p>16 Suite 2800</p> <p>17 Dallas, Texas 75201</p> <p>18 (214) 740-8000</p> <p>19 Sjones@lockelord.com</p> <p>20 Representing the Defendant,</p> <p>21 Henry Schein, Incorporated</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (Continued)</p> <p>2</p> <p>3 COVINGTON & BURLING LLP</p> <p>4 BY: MADISON ARENT, ESQUIRE</p> <p>5 The New York Times Building</p> <p>6 620 Eighth Avenue</p> <p>7 New York, New York 10018</p> <p>8 (212) 841-1000</p> <p>9 Marent@cov.com</p> <p>10 Representing the Defendant,</p> <p>11 McKesson Corporation</p> <p>12</p> <p>13</p> <p>14 GIBBONS PC</p> <p>15 BY: PAUL E. ASFENDIS, ESQUIRE</p> <p>16 One Pennsylvania Plaza</p> <p>17 37th Floor</p> <p>18 New York, New York 10119</p> <p>19 (212) 613-2000</p> <p>20 Pasfendis@gibbonslaw.com</p> <p>21 Representing the Defendant,</p> <p>22 AmerisourceBergen Corporation</p> <p>23</p> <p>24</p> <p>15</p> <p>16</p> <p>17 FARRELL FRITZ, P.C.</p> <p>18 BY: JAMES M. WICKS, ESQUIRE</p> <p>19 400 RXR Plaza</p> <p>20 Uniondale, New York 11556</p> <p>21 (516) 227-0700</p> <p>22 Jwicks@farrellfritz.com</p> <p>23 Representing the Defendant,</p> <p>24 Cardinal Health</p> | <p style="text-align: right;">Page 4</p> <p>1 APPEARANCES: (Continued)</p> <p>2 VIA TELEPHONE/LIVESTREAM:</p> <p>3</p> <p>4 JONES DAY</p> <p>5 BY: PATRICK J. BEISELL, ESQUIRE</p> <p>6 77 West Wacker</p> <p>7 Chicago, Illinois 60601</p> <p>8 (312) 782-3939</p> <p>9 Pbeisell@jonesday.com</p> <p>10 Representing the Defendant,</p> <p>11 Walmart</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>MARCUS & SHAPIRA LLP</p> <p>BY: DANIEL B. MULLIN, ESQUIRE</p> <p>BY: JAMES F. ROSENBERG, ESQUIRE</p> <p>One Oxford Centre</p> <p>35th Floor</p> <p>Pittsburgh, Pennsylvania 15219</p> <p>(412) 471-3490</p> <p>Mullen@marcus-shapira.com</p> <p>Rosenberg@marcus-shapira.com</p> <p>HBC Company</p> <p>ARNOLD & PORTER KAYE SCHOLER LLP</p> <p>BY: WREDE SMITH, ESQUIRE</p> <p>601 Massachusetts Ave, NW</p> <p>Washington, DC 20001</p> <p>(202) 942-5000</p> <p>Wrede.smith@arnoldporter.com</p> <p>and</p> <p>BY: ZENO HOUSTON, ESQUIRE</p> <p>250 West 55th Street</p> <p>New York, New York 10019</p> <p>(212) 836-8000</p> <p>Zeno.houston@arnoldporter.com</p> <p>Representing the Defendant,</p> <p>Endo Pharmaceuticals</p> |
| <p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (Continued)</p> <p>2</p> <p>3 COVINGTON & BURLING LLP</p> <p>4 BY: MADISON ARENT, ESQUIRE</p> <p>5 The New York Times Building</p> <p>6 620 Eighth Avenue</p> <p>7 New York, New York 10018</p> <p>8 (212) 841-1000</p> <p>9 Marent@cov.com</p> <p>10 Representing the Defendant,</p> <p>11 McKesson Corporation</p> <p>12</p> <p>13</p> <p>14 GIBBONS PC</p> <p>15 BY: PAUL E. ASFENDIS, ESQUIRE</p> <p>16 One Pennsylvania Plaza</p> <p>17 37th Floor</p> <p>18 New York, New York 10119</p> <p>19 (212) 613-2000</p> <p>20 Pasfendis@gibbonslaw.com</p> <p>21 Representing the Defendant,</p> <p>22 AmerisourceBergen Corporation</p> <p>23</p> <p>24</p> <p>15</p> <p>16</p> <p>17 FARRELL FRITZ, P.C.</p> <p>18 BY: JAMES M. WICKS, ESQUIRE</p> <p>19 400 RXR Plaza</p> <p>20 Uniondale, New York 11556</p> <p>21 (516) 227-0700</p> <p>22 Jwicks@farrellfritz.com</p> <p>23 Representing the Defendant,</p> <p>24 Cardinal Health</p> | <p style="text-align: right;">Page 5</p> <p>1 APPEARANCES: (Continued)</p> <p>2 VIA TELEPHONE/LIVESTREAM:</p> <p>3</p> <p>4 COVINGTON & BURLING LLP</p> <p>5 BY: MICHELLE L. YOCUM, ESQUIRE</p> <p>6 One CityCenter</p> <p>7 850 Tenth Street NW</p> <p>8 Washington, DC 20001</p> <p>9 (202) 662-6000</p> <p>10 Myocum@cov.com</p> <p>11 Representing the Defendant,</p> <p>12 McKesson Corporation</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>ALSO PRESENT:</p> <p>Ray Moore, Videographer</p> <p>Marjorie Han, Henry Schein, Incorporated</p> <p>Janim Downing, Henry Schein, Incorporated</p> |

| Page 6 | | |
|--------|---|---------|
| 1 | - - - | |
| 2 | I N D E X | |
| 3 | - - - | |
| 4 | Testimony of: SHAUN ABREU | |
| 5 | By Mr. Migliori | 11, 454 |
| 6 | By Mr. Jones | 449 |
| 7 | - - - | |
| 8 | E X H I B I T S | |
| 9 | - - - | |
| 10 | NO. DESCRIPTION PAGE | |
| 11 | Schein-Abreu-1 First Amended Notice | |
| 12 | of Deposition | 31 |
| 13 | Schein-Abreu-2 Objections and Responses | |
| 14 | To First Amended Notice | |
| 15 | Of Deposition | 39 |
| 16 | Schein-Abreu-3 Amended Objections and | |
| 17 | Responses to Plaintiffs' | |
| 18 | First Combined Discovery | |
| 19 | Requests | 98 |
| 20 | Schein-Abreu-4 21 C.F.R. 1301.74 | 140 |
| 21 | Schein-Abreu-5 HenrySchein.com | |
| 22 | Printout | 149 |
| 23 | Schein-Abreu-6 Verification Team | |
| 24 | Overview; July 2015 | 162 |
| | Schein-Abreu-7 HSI-MDL-00000086-103 | 173 |
| | Schein-Abreu-8 HSI-MDL-00231455-458 | 183 |

| Page 7 | | |
|--------|--|------|
| 1 | - - - | |
| 2 | E X H I B I T S | |
| 3 | - - - | |
| 4 | NO. DESCRIPTION PAGE | |
| 5 | Schein-Abreu-9 HSI-MDL-000993112-115 | 204 |
| 6 | Schein-Abreu-10 HSI-MDL-00404079-080 | 206 |
| 7 | Schein-Abreu-11 HSI-MDL-00404222-223 | 226 |
| 8 | Schein-Abreu-12 HSI-MDL-00404203-209 | 232 |
| 9 | Schein-Abreu-13 HSI-MDL-00404219 | 256 |
| 10 | Schein-Abreu-14 HSI-MDL-00386726 | 262 |
| 11 | Schein-Abreu-15 HSI-MDL-00374284-285 | 266 |
| 12 | Schein-Abreu-16 HSI-MDL-00040712 | 270 |
| 13 | Schein-Abreu-17 HSI-MDL-00404369-373 | 283 |
| 14 | Schein-Abreu-18 HSI-MDL-00072607 | 293 |
| 15 | Schein-Abreu-19 Memorandum Opinion and | |
| 16 | Order; USA v Heim | 315 |
| 17 | Schein-Abreu-20 HSI-MDL-00001198-210 | 323 |
| 18 | Schein-Abreu-21 HSI Shipped Order by | |
| 19 | DEA - Run Date 7/11/12 | 342 |
| 20 | Schein-Abreu-22 HSI-MDL-00019701-704 | 377f |
| 21 | Schein-Abreu-23 HSI-MDL-00002760 | 390 |
| 22 | Schein-Abreu-24 HSI-MDL-00020069-070 | 395 |
| 23 | Schein-Abreu-25 HSI-MDL-00397293-294 | 411 |
| 24 | | |

| Page 8 | | |
|--------|---------------------------------------|-----|
| 1 | - - - | |
| 2 | E X H I B I T S | |
| 3 | - - - | |
| 4 | NO. DESCRIPTION PAGE | |
| 5 | Schein-Abreu-26 HSI-MDL-00039634 | 424 |
| 6 | Schein-Abreu-27 HSI-MDL-00156897-899 | 434 |
| 7 | Schein-Abreu-28 HSI-MDL-000009208-218 | 443 |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | | |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |

| Page 9 | | |
|--------|---|-----------|
| 1 | - - - | |
| 2 | D E P O S I T I O N S U P P O R T I N D E X | |
| 3 | - - - | |
| 4 | | |
| 5 | Direction to Witness Not to Answer | |
| 6 | Page Line | Page Line |
| 7 | None | |
| 8 | | |
| 9 | | |
| 10 | Request for Production of Documents | |
| 11 | Page Line | Page Line |
| 12 | None | |
| 13 | | |
| 14 | | |
| 15 | Stipulations | |
| 16 | Page Line | Page Line |
| 17 | 10 | 1 |
| 18 | | |
| 19 | | |
| 20 | Question Marked | |
| 21 | Page Line | Page Line |
| 22 | None | |
| 23 | | |
| 24 | | |

| | |
|--|--|
| <p style="text-align: right;">Page 10</p> <p>1 - - -</p> <p>2 (It is hereby stipulated and</p> <p>3 agreed by and among counsel that</p> <p>4 sealing, filing and certification</p> <p>5 are waived; and that all</p> <p>6 objections, except as to the form</p> <p>7 of the question, will be reserved</p> <p>8 until the time of trial.)</p> <p>9 - - -</p> <p>10 VIDEO TECHNICIAN: We are</p> <p>11 now on the record. My name is Ray</p> <p>12 Moore, I'm a videographer with</p> <p>13 Golkow Litigation Services.</p> <p>14 Today's date is December 12, 2018,</p> <p>15 and the time is 9:06 a.m.</p> <p>16 This video deposition is</p> <p>17 being held in New York, New York,</p> <p>18 in the matter In Re National</p> <p>19 Prescription Opiate Litigation for</p> <p>20 the United States District Court</p> <p>21 for the Northern District of Ohio,</p> <p>22 Eastern Division MDL2804.</p> <p>23 The deponent is Shaun Abreu.</p> <p>24 Counsel will be noted on the</p> | <p style="text-align: right;">Page 12</p> <p>1 there's nothing so formal about this that</p> <p>2 you can't stop and ask to talk to your</p> <p>3 lawyer. If there's some issue between</p> <p>4 us, then the lawyers will handle that</p> <p>5 between ourselves.</p> <p>6 But, otherwise, as we go</p> <p>7 through today, if I ask a question and</p> <p>8 you answer it, for my purposes, I'm going</p> <p>9 to assume that you've understood the</p> <p>10 question.</p> <p>11 Is that a fair way to start?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Your answers have to</p> <p>14 be verbal, that is, the court reporter is</p> <p>15 taking down each word, so gestures or</p> <p>16 sounds are hard to type. So please</p> <p>17 articulate all of your answers verbally.</p> <p>18 And also because the court</p> <p>19 reporter is taking this down, please wait</p> <p>20 for my question to finish before you</p> <p>21 answer. And I'll do the same, I'll try</p> <p>22 not to interrupt your response.</p> <p>23 Do you have any questions</p> <p>24 before we get started?</p> |
| <p style="text-align: right;">Page 11</p> <p>1 stenographic record. The court</p> <p>2 reporter is Amanda Miller, and</p> <p>3 will now swear in the witness.</p> <p>4 - - -</p> <p>5 SHAUN ABREU, after having</p> <p>6 been duly sworn, was examined and</p> <p>7 testified as follows:</p> <p>8 - - -</p> <p>9 EXAMINATION</p> <p>10 - - -</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. Good morning, Mr. Abreu.</p> <p>13 A. Good morning.</p> <p>14 Q. My name is Don Migliori, I'm</p> <p>15 from the law firm Motley Rice, and I'm</p> <p>16 one of the lawyers representing the</p> <p>17 various plaintiffs in this litigation.</p> <p>18 I'll be asking you questions</p> <p>19 throughout the course of today. My voice</p> <p>20 is a little low. If you can't hear me or</p> <p>21 if you can't understand me, please stop</p> <p>22 me, and I'll clarify or raise my voice.</p> <p>23 If there's any questions</p> <p>24 that you have during the deposition,</p> | <p style="text-align: right;">Page 13</p> <p>1 A. No.</p> <p>2 Q. Okay. Have you done this</p> <p>3 before?</p> <p>4 A. No.</p> <p>5 Q. Again, at any time if you</p> <p>6 have any questions, just stop and we'll</p> <p>7 take a break or clarify whatever you</p> <p>8 need.</p> <p>9 Let's get started.</p> <p>10 So could you give me your</p> <p>11 full name and your current residence?</p> <p>12 A. Shaun Terrence Abreu. And</p> <p>13 that's 686 North Fulton Avenue,</p> <p>14 Lindenhurst, New York 11757.</p> <p>15 Q. What is your job title and</p> <p>16 employment?</p> <p>17 A. I work for Henry Schein.</p> <p>18 I'm a senior manager of the verifications</p> <p>19 team.</p> <p>20 Q. And what are your</p> <p>21 responsibilities as a senior manager?</p> <p>22 A. So I'm responsible for</p> <p>23 overseeing our licensing verification</p> <p>24 process, as well as our program for</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 14</p> <p>1 suspicious order monitoring and customer 2 due diligence. 3 Q. Okay. Let's break that 4 down. 5 Let's start with the 6 licensing side. Licensing for what 7 processes within Henry Schein? 8 A. So customers' orders of 9 prescription products, devices, drugs and 10 controlled substances. We validate 11 licensure and credentials for the 12 shipment of those products. 13 Q. On the suspicious order 14 monitoring side, what are your 15 responsibilities, more precisely? 16 A. To, you know, control the 17 system itself, you know, review orders 18 and conduct customer due diligence to 19 ship those orders. 20 Q. Are you part of the 21 verification department, or is there 22 another name for the department that 23 you're in? 24 A. No, it's the verifications</p> | <p style="text-align: right;">Page 16</p> <p>1 there between verification and the 2 regulatory affairs department? 3 MR. JONES: Object to the 4 form. Vague. 5 BY MR. MIGLIORI: 6 Q. What's the relationship? 7 Are you in parallel departments? Do you 8 have any responsibilities within 9 regulatory affairs? 10 A. I don't have responsibility 11 within regulatory affairs. 12 Q. Does regulatory affairs have 13 responsibilities within the suspicious 14 order monitoring program? 15 A. Yes. They have oversight. 16 Q. Okay. So in that sense, is 17 the verification process for which you're 18 a senior manager, does that report to 19 regulatory affairs, or does regulatory 20 affairs have oversight over your 21 verification process? 22 A. Regulatory has oversight 23 over the verification process. 24 Q. And has that been true as</p> |
| <p style="text-align: right;">Page 15</p> <p>1 department. 2 Q. And that's separate, as I 3 understand it, from the regulatory 4 affairs department? 5 A. That's correct. 6 Q. Is there overlap or 7 oversight for both of those departments 8 that you report to? 9 A. I'm sorry, say that one more 10 time. 11 Q. Not a good question. 12 Who do you report to? 13 A. The name of my -- 14 Q. Supervisor. 15 A. -- my manager? 16 Q. His or her title. 17 A. Bill Brandt. 18 Q. And what is his title? 19 A. He's the executive director 20 of customer service. 21 Q. Is that role above 22 regulatory affairs as well? 23 A. No, it's separate. 24 Q. What, if any, overlap is</p> | <p style="text-align: right;">Page 17</p> <p>1 long as you've been involved with 2 verifications? 3 A. Yes. 4 Q. And who is the senior-most 5 person in the regulatory affairs 6 department? 7 A. Jeff Peacock. 8 Q. And how many people does 9 Jeff Peacock have underneath him? 10 A. I'm not sure of an exact 11 number. 12 Q. When you interact with 13 regulatory affairs in its oversight 14 capacity, who do you deal with on a 15 day-to-day basis? 16 A. Sergio Tejada. 17 Q. And what's Sergio's title? 18 A. He's the director of 19 regulatory affairs. 20 Q. And what kind of 21 interactions would you have in 22 verifications with Sergio? 23 A. Just understanding 24 requirements and systems, and just</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 18</p> <p>1 collaboration on a day-to-day basis.</p> <p>2 Q. And in terms of suspicious</p> <p>3 orders, is there a process today where</p> <p>4 you formally seek approval for shipment</p> <p>5 from the regulatory affairs department?</p> <p>6 A. We collaborate, yes.</p> <p>7 Q. And, ultimately, when you</p> <p>8 collaborate with regulatory affairs,</p> <p>9 whose decision is it to decide to ship or</p> <p>10 not ship an order?</p> <p>11 A. On ones that we discuss,</p> <p>12 regulatory would have the final say.</p> <p>13 Q. Are there some suspicious</p> <p>14 orders that are allowed to be cleared</p> <p>15 today that don't require you to go to</p> <p>16 regulatory affairs?</p> <p>17 MR. JONES: Object to the</p> <p>18 form. Vague.</p> <p>19 MR. MIGLIORI: Go ahead.</p> <p>20 THE WITNESS: Sorry?</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Do you understand the</p> <p>23 question? I can repeat it.</p> <p>24 A. Yes. I'm sorry, can you</p> | <p style="text-align: right;">Page 20</p> <p>1 of the folks that are on your team?</p> <p>2 A. It's a lot of people.</p> <p>3 Q. Okay. How many people?</p> <p>4 Let's start there.</p> <p>5 A. About 42.</p> <p>6 Q. Okay. Are they all in the</p> <p>7 same location, or are they throughout the</p> <p>8 country?</p> <p>9 A. Two different locations.</p> <p>10 Q. What are the two locations?</p> <p>11 A. Melville, New York and Reno,</p> <p>12 Nevada.</p> <p>13 Q. So you're in Melville, New</p> <p>14 York, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And how many people are in</p> <p>17 the verifications department in the</p> <p>18 Melville, New York office?</p> <p>19 A. Twenty-five.</p> <p>20 Q. And the balance of the 42</p> <p>21 are in Reno?</p> <p>22 A. Correct.</p> <p>23 Q. And are the responsibilities</p> <p>24 divided between those two offices</p> |
| <p style="text-align: right;">Page 19</p> <p>1 repeat it?</p> <p>2 Q. Sure.</p> <p>3 Are there some suspicious</p> <p>4 orders that can be cleared for shipment</p> <p>5 that don't require verifications to go to</p> <p>6 regulatory affairs --</p> <p>7 MR. JONES: Same objection.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. -- today?</p> <p>10 You may answer.</p> <p>11 A. Yes.</p> <p>12 Q. And we'll go through those</p> <p>13 systems.</p> <p>14 Would you be the person</p> <p>15 responsible, within verifications, to</p> <p>16 clear those orders, the ones that do not</p> <p>17 go to regulatory affairs?</p> <p>18 A. One of the people</p> <p>19 responsible.</p> <p>20 Q. And who would be the other</p> <p>21 people in verifications?</p> <p>22 A. People on my team that would</p> <p>23 report to me.</p> <p>24 Q. Could you give me the names</p> | <p style="text-align: right;">Page 21</p> <p>1 geographically?</p> <p>2 A. No.</p> <p>3 Q. How are they divided?</p> <p>4 A. It's one team working on</p> <p>5 everything in collaboration. It's not</p> <p>6 divided geographically.</p> <p>7 Q. So we're going to get more</p> <p>8 into many of the issues that we've</p> <p>9 touched upon. But let me start by asking</p> <p>10 a little bit about you.</p> <p>11 You've been at Henry Schein</p> <p>12 since you graduated from college,</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. You initially went to Nassau</p> <p>16 Community College until 2003. And from</p> <p>17 2003 to 2005, you went to Farmingdale</p> <p>18 State University of New York?</p> <p>19 A. That's correct.</p> <p>20 Q. You obtained a Bachelor's</p> <p>21 degree in business management technology,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. And after that, within</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 22</p> <p>1 December, I guess, of 2005 you started 2 with Henry Schein as a customer service 3 representative, correct? 4 A. Yes. 5 Q. What responsibilities did 6 you have as a customer service 7 representative? 8 A. I would handle customer 9 inquiries, you know, returns, credits, 10 tracking, those types of inquiries. 11 Q. Did that include controlled 12 substances? 13 A. Tracking, yes. 14 Q. And did you have any role, 15 at that period of time, from 2005 to 16 2006, as a customer service 17 representative, in any suspicious order 18 monitoring process? 19 A. No. 20 Q. In January of 2007, you 21 became a customer service trainer? 22 A. Correct. 23 Q. And you held that position 24 for approximately a year, correct?</p> | <p style="text-align: right;">Page 24</p> <p>1 became a lead representative for 2 database; is that correct? 3 A. That's right. 4 Q. You held that position for a 5 little more than a year and-a-half? 6 A. I think it was a little 7 longer, but yes. 8 Q. And what did you do in that 9 capacity? 10 A. We were responsible for 11 maintaining the customer database. 12 Q. And the customers being the 13 physicians and healthcare facilities that 14 purchased devices and drugs and 15 controlled substances from Schein? 16 A. Correct. 17 Q. In that role, as a database 18 representative, did you have any 19 responsibilities relating to suspicious 20 order monitoring? 21 A. No. 22 Q. Did you have any training, 23 as of September of 2009, in any aspects 24 of suspicious order monitoring?</p> |
| <p style="text-align: right;">Page 23</p> <p>1 A. Correct. 2 Q. And what were your 3 responsibilities there? 4 A. I was to train new hires in 5 the role that I was previously in. 6 Q. In the customer service 7 representative role? 8 A. Correct. 9 Q. In that training, were there 10 any aspects of that training that 11 involved suspicious order monitoring 12 processes for controlled substances? 13 A. No. 14 Q. In January of -- 15 MR. BEISELL: I'm sorry to 16 interrupt, can we move the mike to 17 the witness? I can't hear the 18 witness at all from the phone. 19 - - - 20 (Whereupon, a discussion off 21 the record occurred.) 22 - - - 23 BY MR. MIGLIORI: 24 Q. In January of 2008 you</p> | <p style="text-align: right;">Page 25</p> <p>1 MR. JONES: Object to the 2 form. Vague. Overly broad. 3 MR. MIGLIORI: Go ahead. 4 THE WITNESS: Can you, I'm 5 sorry, repeat the question? 6 BY MR. MIGLIORI: 7 Q. Sure. 8 So I understand you held a 9 role as a representative for the 10 database, customer database, through 11 September of 2009; is that correct? 12 A. Correct. 13 Q. Through September of 2009, 14 did you receive any training with respect 15 to suspicious order monitoring? 16 A. No. 17 Q. All right. In October of 18 2009, you began working in the 19 verifications department, correct? 20 A. That's correct. 21 Q. At that point, did you 22 receive particularized training with 23 respect to suspicious order monitoring 24 and controlled substances?</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 26</p> <p>1 MR. JONES: Object to the 2 form. Vague. Overly broad. 3 MR. MIGLIORI: Go ahead. 4 THE WITNESS: Yes, I began 5 training. Yes. 6 BY MR. MIGLIORI: 7 Q. Describe the training you 8 would have received, in October of 2009, 9 relative to suspicious order monitoring 10 programs and controlled substances? 11 A. I was training with the 12 trainer at the time. And, you know, we 13 started going through training for 14 license verification and understanding 15 what the SOM processes and protocols were 16 at that time. 17 Q. At that time, there was a 18 suspicious order monitoring program in 19 place, correct? 20 A. Correct. 21 Q. At that time, you were not 22 in the division of suspicious order 23 monitoring; that is, you were not in 24 regulatory affairs, I should say,</p> | <p style="text-align: right;">Page 28</p> <p>1 suspicious order monitoring program, that 2 is covered by regulatory as well, 3 correct? 4 MR. JONES: Object to the 5 form. 6 THE WITNESS: Correct. 7 BY MR. MIGLIORI: 8 Q. All right. So your training 9 in verifications in 2009 was specific to 10 the -- what you call license verification 11 or registration verification of your 12 customers, correct? 13 A. Correct. 14 Q. Tell me what you learned at 15 that point about the verification 16 component of suspicious order monitoring 17 in 2009. 18 MR. JONES: Object to the 19 form. Overly broad. Vague. 20 MR. MIGLIORI: Go ahead. 21 THE WITNESS: So when you 22 say the "verification component," 23 are you talking about the 24 licensing part and inclusive of</p> |
| <p style="text-align: right;">Page 27</p> <p>1 correct? 2 A. I was not in regulatory 3 affairs. 4 Q. In verifications, your 5 responsibilities, within the suspicious 6 order monitoring program in 2009, were 7 limited to license verification and 8 registration verification, correct? 9 A. Can you repeat that 10 question? 11 Q. Sure. 12 When you started in the 13 verifications department, and you started 14 to receive your training relative to 15 suspicious order monitoring and 16 controlled substances, you were training 17 within a division of verifications, 18 correct? 19 A. Correct. 20 Q. And verifications is a 21 component part of the suspicious order 22 monitoring program, correct? 23 A. Correct. 24 Q. It is not the entire</p> | <p style="text-align: right;">Page 29</p> <p>1 suspicious order monitoring? 2 BY MR. MIGLIORI: 3 Q. Even more basic. 4 What became your job with 5 respect to verifications and suspicious 6 order monitoring in October of 2009? 7 A. To, you know, to run the 8 system and our protocols for validating 9 licensure, right, state licensure, 10 federal licensure, for customers to 11 receive prescription products, including 12 controlled substances. 13 Q. And as of -- 14 MR. JONES: Hang on. Were 15 you finished? 16 THE WITNESS: Hmm? 17 MR. JONES: Were you 18 finished with your answer? 19 THE WITNESS: Yes. 20 MR. MIGLIORI: He nodded. 21 You may not have seen it. 22 BY MR. MIGLIORI: 23 Q. Okay. And how long was that 24 your job in verifications, that is, the</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 30</p> <p>1 description you just provided?</p> <p>2 A. It continues to be to</p> <p>3 present day.</p> <p>4 Q. From the end of 2009 to</p> <p>5 today, how have your responsibilities</p> <p>6 evolved within the verifications</p> <p>7 department, and, specifically, to the</p> <p>8 suspicious order monitoring program?</p> <p>9 A. I mean, they basically have</p> <p>10 been the same since the beginning. I've</p> <p>11 had responsibility for the license</p> <p>12 verification and the suspicious order</p> <p>13 monitoring since day one.</p> <p>14 Q. All right. Did you -- I</p> <p>15 understood you to say that you're a</p> <p>16 senior manager now?</p> <p>17 A. Yes.</p> <p>18 Q. What's the difference</p> <p>19 between being a senior manager today and</p> <p>20 what you started at in verifications back</p> <p>21 in 2009, if anything?</p> <p>22 A. Responsibility-wise?</p> <p>23 Q. Yes.</p> <p>24 A. Well, I do oversee another</p> | <p style="text-align: right;">Page 32</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. This is a notice, it's</p> <p>3 called the first amended notice of</p> <p>4 deposition for today.</p> <p>5 Have you seen this before?</p> <p>6 A. Yes.</p> <p>7 Q. And you understand that</p> <p>8 you're being asked to be here today as a</p> <p>9 representative of the company, Henry</p> <p>10 Schein, Inc., correct?</p> <p>11 A. Yes.</p> <p>12 Q. That is, we call this a</p> <p>13 30(b)(6) deposition, but it's another way</p> <p>14 of saying that we're asking you to be</p> <p>15 here today to speak for the company</p> <p>16 relative to certain topics that are</p> <p>17 specifically referenced in this notice.</p> <p>18 Do you understand that?</p> <p>19 A. Yes.</p> <p>20 Q. And that today we're not</p> <p>21 here to take your personal deposition as</p> <p>22 to facts that you have come across that</p> <p>23 are outside the scope of this.</p> <p>24 If, and when, we ever need</p> |
| <p style="text-align: right;">Page 31</p> <p>1 team as well.</p> <p>2 Q. What team is that?</p> <p>3 A. The gatekeepers.</p> <p>4 Q. And what role -- what does</p> <p>5 that department do? What does that team</p> <p>6 do?</p> <p>7 A. It's the database team that</p> <p>8 I formerly worked in years prior.</p> <p>9 Q. So your responsibilities</p> <p>10 relative to verifications has not</p> <p>11 changed, but now you've added an</p> <p>12 oversight component to your job, which</p> <p>13 now includes the database -- customer</p> <p>14 database responsibilities you had</p> <p>15 previously; is that a fair statement?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Let me show you</p> <p>18 what's been premarked as Exhibit-1.</p> <p>19 - - -</p> <p>20 (Whereupon, Exhibit</p> <p>21 Schein-Abreu-1, First Amended</p> <p>22 Notice of Deposition, was marked</p> <p>23 for identification.)</p> <p>24 - - -</p> | <p style="text-align: right;">Page 33</p> <p>1 that kind of deposition, that would be a</p> <p>2 separate process, okay?</p> <p>3 A. Okay.</p> <p>4 Q. And I'm not going to go</p> <p>5 through them here, it's not as</p> <p>6 productive, but on Page 6 of this notice,</p> <p>7 those subjects, those specific subjects</p> <p>8 for this deposition, are enumerated in</p> <p>9 Subparagraphs A through N on Page 7.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And did you review these</p> <p>13 topics with your counsel?</p> <p>14 A. Yes.</p> <p>15 Q. All right. And in</p> <p>16 preparation for this deposition, did you</p> <p>17 meet with counsel?</p> <p>18 A. Yes.</p> <p>19 Q. How many times did you meet</p> <p>20 with your counsel to prepare for today?</p> <p>21 A. Twice.</p> <p>22 Q. When were those occasions?</p> <p>23 A. Once last week and once</p> <p>24 yesterday.</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 34</p> <p>1 Q. And those are the only two</p> <p>2 meetings you've had in preparation for</p> <p>3 this deposition?</p> <p>4 A. Yes.</p> <p>5 Q. Nothing by telephone of</p> <p>6 substance?</p> <p>7 A. No.</p> <p>8 Q. And the meeting last week,</p> <p>9 how long did that meeting last?</p> <p>10 A. It was for almost one day.</p> <p>11 Q. And did you review</p> <p>12 documents?</p> <p>13 A. Sorry?</p> <p>14 Q. Did you review documents</p> <p>15 with counsel?</p> <p>16 A. Yes.</p> <p>17 Q. Did you bring any of your</p> <p>18 own documents to share with counsel that</p> <p>19 you maintain?</p> <p>20 A. No.</p> <p>21 Q. And was Mr. Jones present</p> <p>22 during that meeting?</p> <p>23 A. Yes, he was.</p> <p>24 Q. Was it here at this office?</p> | <p style="text-align: right;">Page 36</p> <p>1 regulatory affairs that has oversight of</p> <p>2 your verifications department?</p> <p>3 A. That's correct.</p> <p>4 Q. Anyone else?</p> <p>5 A. No.</p> <p>6 Q. Was Sergio at the meetings?</p> <p>7 A. Yes.</p> <p>8 Q. Both of them?</p> <p>9 A. No.</p> <p>10 Q. Who else -- just the meeting</p> <p>11 yesterday, or which meeting?</p> <p>12 A. Sergio was at the meeting</p> <p>13 last week.</p> <p>14 Q. And did you meet with</p> <p>15 anybody else besides counsel and Sergio?</p> <p>16 A. Yes. Frank O'Regan.</p> <p>17 Q. And who is Frank O'Regan?</p> <p>18 A. He's the manager for</p> <p>19 regulatory affairs.</p> <p>20 Q. And does Sergio report to</p> <p>21 Frank?</p> <p>22 A. No, Frank reports to Sergio.</p> <p>23 Q. Okay. And was he also at</p> <p>24 the meeting last week?</p> |
| <p style="text-align: right;">Page 35</p> <p>1 A. The one yesterday.</p> <p>2 Q. Okay. How long did you meet</p> <p>3 yesterday?</p> <p>4 A. For four hours.</p> <p>5 Q. Did you review additional</p> <p>6 documents?</p> <p>7 A. No.</p> <p>8 Q. Did you review any testimony</p> <p>9 of any other witness in this litigation?</p> <p>10 A. No.</p> <p>11 Q. Did you speak with any other</p> <p>12 employees at Schein to help inform</p> <p>13 yourself about certain topics that we're</p> <p>14 going to discuss?</p> <p>15 A. Yes.</p> <p>16 Q. Which other employees --</p> <p>17 don't tell me the nature of the</p> <p>18 conversations, but which other employees</p> <p>19 did you speak with?</p> <p>20 A. Sergio Tejada.</p> <p>21 Q. That's your supervisor?</p> <p>22 A. No.</p> <p>23 Q. Sorry, strike that.</p> <p>24 That is the person within</p> | <p style="text-align: right;">Page 37</p> <p>1 A. Yes, briefly.</p> <p>2 Q. Anyone else that you can</p> <p>3 recall?</p> <p>4 A. Just my inside attorney.</p> <p>5 Q. And by that you mean the</p> <p>6 general counsel --</p> <p>7 A. Yes.</p> <p>8 Q. -- or someone from the</p> <p>9 general counsel's office?</p> <p>10 A. Yes.</p> <p>11 Q. Other than those meetings</p> <p>12 and the documents you reviewed and the</p> <p>13 two other employees that you spoke with,</p> <p>14 did you do anything else to prepare for</p> <p>15 your testimony today?</p> <p>16 A. No.</p> <p>17 Q. Over the course of your time</p> <p>18 at Schein, were you involved, at any</p> <p>19 point, with the development of</p> <p>20 standing -- standard operating</p> <p>21 procedures, or SOM procedures, at Schein?</p> <p>22 A. Yes.</p> <p>23 Q. What responsibilities have</p> <p>24 you had, and when?</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 38</p> <p>1 A. I created an SOP in 2011 or 2 2012.</p> <p>3 Q. Okay. And what was that SOP 4 for?</p> <p>5 A. For our suspicious order 6 monitoring and due diligence program.</p> <p>7 Q. And what component did you 8 work on for that particular standard 9 operating procedure?</p> <p>10 A. I drafted the SOP.</p> <p>11 Q. The entire SOP?</p> <p>12 A. Yes.</p> <p>13 Q. We'll go through that 14 specifically.</p> <p>15 Anything else that you did 16 personally with respect to developing 17 SOPs or modifying the suspicious order 18 monitoring program?</p> <p>19 A. I've been involved. But, 20 you know, just drafting of the SOP.</p> <p>21 Q. The one SOP that we spoke 22 of?</p> <p>23 A. And the one for the 24 licensing.</p> | <p style="text-align: right;">Page 40</p> <p>1 response to that notice that I just 2 showed you.</p> <p>3 And it's -- references the 4 topics specifically and what limitations, 5 if any. I just want to go through these 6 topics really quickly to make sure that 7 we're on the same page.</p> <p>8 A. Okay.</p> <p>9 Q. If we go to Page 5 of 10 Exhibit-2, and just for the record, this 11 is, Distributor Defendant Henry Schein's 12 Objections and Responses to Plaintiffs' 13 First Amended Notice of Deposition. This 14 one is dated December 7th, 2018.</p> <p>15 The first topic listed is, 16 Your duty and the basis of said duty 17 relating to the maintenance of effective 18 controls against diversion and/or your 19 duty and the basis of said duty to design 20 and operate a system to disclose 21 suspicious orders of controlled 22 substances pursuant to federal law, 23 including but not limited to the 24 following topics.</p> |
| <p style="text-align: right;">Page 39</p> <p>1 Q. And the one for licensing. 2 What was the year for the 3 one for the licensing?</p> <p>4 A. It's been in existence. 5 It's just been revisions to it over the 6 years.</p> <p>7 Q. And by that, that is a 8 verification that a customer, in fact, 9 maintains the appropriate DEA 10 registration and state licensing before 11 you'll ship medications to that doctor, 12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. I'll show you what's been 15 premarked as Exhibit-2.</p> <p>16 - - -</p> <p>17 (Whereupon, Exhibit 18 Schein-Abreu-2, Objections and 19 Responses to First Amended Notice 20 of Deposition, was marked for 21 identification.)</p> <p>22 - - -</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. Exhibit-2 is Schein's</p> | <p style="text-align: right;">Page 41</p> <p>1 Counsel here is indicating 2 that you're not here to talk about your 3 legal obligations.</p> <p>4 Do you understand that to be 5 a limitation of your testimony today?</p> <p>6 A. Yes.</p> <p>7 Q. The first enumerated item is 8 A, it says, Your past and present 9 suspicious order monitoring program, SOM 10 programs, and procedures.</p> <p>11 You are identified, with 12 some reservations, as being the person 13 with most knowledge within the company to 14 speak on that topic.</p> <p>15 Do you understand that to be 16 your role?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know of other people 19 in your company that have equal or 20 greater information about the suspicious 21 order monitoring programs, policies and 22 procedures --</p> <p>23 MR. JONES: Objection.</p> <p>24 BY MR. MIGLIORI:</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 42</p> <p>1 Q. -- over the course of the</p> <p>2 past 20 years?</p> <p>3 MR. JONES: Objection.</p> <p>4 Form. Vague. Overly broad.</p> <p>5 MR. MIGLIORI: Go ahead.</p> <p>6 THE WITNESS: Only Sergio</p> <p>7 Tejada.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. And that's -- again, Sergio</p> <p>10 is the -- in the regulatory affairs</p> <p>11 department, and he has -- and his</p> <p>12 department has oversight of verifications</p> <p>13 with respect to suspicious orders,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. All right. The next topic</p> <p>17 is, Your past, present Know Your Customer</p> <p>18 program policies and procedures.</p> <p>19 Are you familiar with the</p> <p>20 term "Know Your Customer"?</p> <p>21 A. Yes.</p> <p>22 Q. Have you been involved in</p> <p>23 the Know Your Customer evolution within</p> <p>24 the suspicious order monitoring program</p> | <p style="text-align: right;">Page 44</p> <p>1 company that has equal to or greater</p> <p>2 knowledge about the Know Your Customer</p> <p>3 requirements?</p> <p>4 A. Again, it would be Sergio</p> <p>5 Tejada.</p> <p>6 Q. And you understand you're</p> <p>7 here to talk to me today about that</p> <p>8 topic?</p> <p>9 A. Yes.</p> <p>10 Q. All right. The next topic,</p> <p>11 Your past and present interpretation,</p> <p>12 compliance agreement and/or disagreement</p> <p>13 with various Dear Registrant letters from</p> <p>14 the DEA outlining the duties imposed on a</p> <p>15 distributor by federal law.</p> <p>16 Are you familiar with the</p> <p>17 so-called Rannazzisi letters?</p> <p>18 A. Yes.</p> <p>19 Q. Did you review those in</p> <p>20 preparation for today?</p> <p>21 A. Yes.</p> <p>22 Q. Do you believe that you</p> <p>23 reviewed the four that are specifically</p> <p>24 dated and referenced here in this notice?</p> |
| <p style="text-align: right;">Page 43</p> <p>1 at Schein?</p> <p>2 A. Yes.</p> <p>3 Q. And your involvement</p> <p>4 includes the 2011/2012 SOP that you wrote</p> <p>5 on due diligence?</p> <p>6 A. Yes.</p> <p>7 Q. Do you consider Know Your</p> <p>8 Customer to include, among other things,</p> <p>9 your obligations with respect to due</p> <p>10 diligence?</p> <p>11 MR. JONES: Objection.</p> <p>12 Form. Vague.</p> <p>13 THE WITNESS: Can you</p> <p>14 restate the question?</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Sure.</p> <p>17 Is due diligence a component</p> <p>18 part of Know Your Customer?</p> <p>19 A. Yes.</p> <p>20 Q. Are you the person with the</p> <p>21 most knowledge about the issue of knowing</p> <p>22 your customer obligations?</p> <p>23 A. Yes.</p> <p>24 Q. Is there anybody else in the</p> | <p style="text-align: right;">Page 45</p> <p>1 MR. JONES: Objection.</p> <p>2 Form. Misstates the topic.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Do you see those?</p> <p>5 A. Yes.</p> <p>6 Q. The dates here, 9/26/06,</p> <p>7 2/7/07, and 12/27/2007 --</p> <p>8 A. Yes.</p> <p>9 Q. -- do you see those?</p> <p>10 Have you seen other</p> <p>11 Rannazzisi letters?</p> <p>12 A. No.</p> <p>13 Q. Have you read those three?</p> <p>14 A. Yes.</p> <p>15 Q. Do you feel that you are</p> <p>16 qualified and prepared to speak on behalf</p> <p>17 of the company with respect to those</p> <p>18 letters?</p> <p>19 A. Yes.</p> <p>20 Q. Are you -- you were not in</p> <p>21 the SOM or verification program during</p> <p>22 those years, were you?</p> <p>23 A. No.</p> <p>24 Q. You didn't become part of</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 46</p> <p>1 any verification process or suspicious 2 order monitoring program process until 3 2009, correct? 4 A. Correct. 5 Q. Is there any other person in 6 the company that you believe has equal to 7 or superior knowledge about the 8 Rannazzisi letters? 9 A. Sergio Tejeda. 10 Q. Anyone else? 11 A. No. 12 Q. The next topic. Past and 13 present interpretation, compliance, 14 agreement and/or disagreement with the 15 reporting requirements and shipping 16 requirement as referenced in a particular 17 written opinion. 18 Have you read the opinion 19 that's referenced here that's called the 20 Masters Pharmacy Versus Drug Enforcement 21 Administration? 22 A. Which opinion? I'm sorry. 23 Q. If you look at D on the top 24 of Page 8. There's referenced on the</p> | <p style="text-align: right;">Page 48</p> <p>1 BY MR. MIGLIORI: 2 Q. Okay. Let's break that 3 down. 4 At any point in your 5 preparation for today, did you review 6 that opinion or the substance of that 7 opinion? 8 A. No. I'm familiar with the 9 topic, but I have not read the opinion 10 itself. 11 Q. When this opinion came out 12 in 2017, last year, you recall that it 13 had come out? 14 A. Yes. 15 Q. And when it came out, you 16 and regulatory had conversations about 17 what it means for your company; is that a 18 fair statement? 19 A. Yes. 20 Q. Who were those conversations 21 with? 22 A. With Sergio Tejeda and Frank 23 O'Regan. 24 Q. And, again, those are both</p> |
| <p style="text-align: right;">Page 47</p> <p>1 very top caption, the very title, the 2 emboldened, the very top, under Subpart 3 D, there's a reference, in italics, to 4 Masters Pharmacy Inc. versus Drug 5 Enforcement Administration. 6 Do you see that? 7 A. Yes. 8 No, I did not read the 9 opinion. 10 Q. Do you recall speaking to 11 counsel about that opinion? 12 A. Yes. 13 Q. And did counsel inform you 14 what the opinion holds? 15 A. We worked with regulatory 16 regarding that opinion. 17 Q. So regulatory, during your 18 meeting last week, and counsel explained 19 to you what that case provides? 20 MR. JONES: Objection. 21 Form. Vague. Misstates. 22 You can answer. 23 THE WITNESS: Not last week, 24 no. When the opinion came out.</p> | <p style="text-align: right;">Page 49</p> <p>1 from regulatory affairs? 2 A. Correct. 3 Q. And they were involving you 4 with respect to any implications it may 5 have for the verification process? 6 A. Correct. 7 Q. Is it fair to say that 8 within the suspicious order monitoring 9 program, your responsibilities are 10 limited to the verification side, 11 correct? 12 MR. JONES: Objection. 13 Form. Misstates prior testimony. 14 BY MR. MIGLIORI: 15 Q. Is that correct? 16 A. Correct. 17 Q. All right. So what do you 18 understand, as you sit here today, if you 19 can remember back to 2017 and your 20 conversations, what do you understand 21 that decision to mean? 22 MR. JONES: Objection. 23 Form. Vague. 24 Don, we're now starting to</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 50</p> <p>1 get into the areas that Special 2 Master Cohen said that witnesses 3 are not to be testifying to, as to 4 the interpretation and the legal 5 import of the Masters decision. 6 MR. MIGLIORI: I appreciate 7 that. I'm not asking -- you have 8 identified, in this answer, that 9 you're designating Shaun Abreu to 10 testify with regard to this topic, 11 to the extent it seeks 12 nonprivileged information that is 13 relevant to the case. 14 I'm only asking what his 15 impression is. I'm not asking him 16 to give me a judicial or legal 17 opinion. 18 MR. JONES: That is fine. 19 Just so we're clear, he's here to 20 testify to that topic, subject to 21 our objections, which includes the 22 rulings from Special Master Cohen 23 as to all of the legal nuances, 24 interpretation, agreement or</p> | <p style="text-align: right;">Page 52</p> <p>1 DEA. 2 Q. And what change do you think 3 that case required of your company? 4 MR. JONES: Objection. 5 Form. Objection. It calls for a 6 legal conclusion. 7 THE WITNESS: Can you 8 repeat? 9 BY MR. MIGLIORI: 10 Q. You said -- you referenced a 11 change that may have come from that 12 decision. 13 What did you understand that 14 change to be? 15 A. The reporting of orders to 16 DEA, when to report. 17 Q. So is it fair to say that, 18 as of 2017, Schein believed that it had a 19 change in obligation to report suspicious 20 orders in a different manner? 21 MR. JONES: Objection. 22 Form. Vague. Objection. Calls 23 for legal conclusion. 24 MR. MIGLIORI: Go ahead.</p> |
| <p style="text-align: right;">Page 51</p> <p>1 disagreement with the Masters 2 decision or the statutes. 3 MR. MIGLIORI: Fair enough. 4 BY MR. MIGLIORI: 5 Q. To understand what we're 6 doing, let me just ask the question this 7 way. I'm not asking you for a legal 8 opinion or for a conclusion about the 9 case. 10 You said contemporaneously 11 with the case coming out, within the 12 ordinary business of your company, you 13 and regulatory, that is, you, Frank and 14 Sergio, actually had a conversation about 15 something that happened in the court 16 systems in this case, correct? 17 A. Correct. 18 Q. From that conversation, what 19 came of it within your company, that is, 20 what is it that you believe, or believed 21 at the time, that meant for you 22 operationally within your company? 23 A. We were discussing the 24 potential change of reporting orders to</p> | <p style="text-align: right;">Page 53</p> <p>1 THE WITNESS: Not a change 2 in obligation. We were always 3 reporting suspicious orders, but 4 the timeliness, the timing of 5 reporting those orders. 6 BY MR. MIGLIORI: 7 Q. And what was the change that 8 you believe had to happen? 9 A. That we needed to report the 10 orders more timely. 11 Q. By "timely," do you mean 12 when discovered? 13 MR. JONES: Objection. 14 Form. Vague. 15 BY MR. MIGLIORI: 16 Q. What do you mean by "more 17 timely"? 18 A. When the orders are pended. 19 Q. So prior to that moment in 20 time, how was Schein reporting suspicious 21 orders, in terms of timeliness? 22 A. It depends on what time 23 frame you're referring to. 24 Q. Let's start with immediately</p> |

Page 54

1 prior to the decision in 2017.
 2 A. We were reporting orders
 3 when they were deemed to be suspicious.
 4 Q. And what would cause
 5 something, in 2017, to be deemed
 6 suspicious?
 7 MR. JONES: And, again, are
 8 you talking before Masters came
 9 out or after?
 10 MR. MIGLIORI: I'm all in
 11 the same period, immediately
 12 prior.
 13 BY MR. MIGLIORI:
 14 Q. What caused something to be
 15 deemed suspicious, in 2017, before
 16 Masters?
 17 A. As a result of our due
 18 diligence, we would potentially deem an
 19 order as suspicious.
 20 Q. If an order was a variance
 21 in size or frequency or pattern of a
 22 particular company, before any due
 23 diligence had been conducted, in 2017,
 24 was that deemed a suspicious order within

Page 55

1 Henry Schein?
 2 MR. JONES: Excuse me. Just
 3 so we're clear, we're talking
 4 about 2017, we're talking about
 5 before Masters?
 6 MR. MIGLIORI: Yes.
 7 MR. JONES: Okay.
 8 THE WITNESS: Sorry. Can
 9 you restate the question?
 10 BY MR. MIGLIORI:
 11 Q. Sure.
 12 In 2017, prior to the
 13 Masters decision, if an order was above
 14 or in excess of size, frequency or
 15 pattern, that is, if there's a deviation
 16 in size, frequency or pattern of a
 17 customer's order in early 2017, but
 18 before any due diligence was conducted,
 19 was that order deemed, in your system at
 20 Schein, suspicious?
 21 MR. JONES: Objection.
 22 Form. Vague.
 23 THE WITNESS: No, it was
 24 deemed as an order of interest.

Page 56

1 BY MR. MIGLIORI:
 2 Q. And Schein maintained that
 3 process up until the Masters decision?
 4 A. That's correct.
 5 Q. As a result of the Masters
 6 decision, did Schein change the
 7 timeliness of when something was to be
 8 deemed suspicious?
 9 MR. JONES: Objection.
 10 Form.
 11 MR. MIGLIORI: Go ahead.
 12 MR. JONES: Vague.
 13 THE WITNESS: Sorry. Can
 14 you repeat the question?
 15 BY MR. MIGLIORI:
 16 Q. Did Masters change that
 17 process?
 18 A. Yes.
 19 Q. How?
 20 A. The order was reported when
 21 it pended as an order of interest.
 22 Q. And "pended" is a term of
 23 art to Schein, that is, in Schein's
 24 system, "pended" means that something

Page 57

1 triggered a potential for an order to
 2 become suspicious, correct?
 3 A. Potential, yes.
 4 Q. And up until Masters, Schein
 5 treated a deviation of size, frequency or
 6 pattern to be a pended order, subject to
 7 some due diligence, before it would be
 8 deemed suspicious?
 9 A. That is correct.
 10 Q. After Masters, Schein
 11 changed that to be as soon as a
 12 triggering event, like a threshold,
 13 deviation of size, deviation of pattern
 14 of ordering, or deviation of frequency of
 15 ordering by a customer, any of those
 16 deviations would immediately cause that
 17 order to be deemed suspicious, subject to
 18 further due diligence, correct?
 19 MR. JONES: Objection to
 20 form.
 21 THE WITNESS: The order was
 22 still an order of interest to us,
 23 but it was reported at that point.
 24 BY MR. MIGLIORI:

| | |
|--|---|
| <p style="text-align: right;">Page 58</p> <p>1 Q. But did you report it, after 2 Masters, as an order of interest or did 3 you report it as a suspicious order? 4 MR. JONES: Objection to 5 form. Vague. 6 BY MR. MIGLIORI: 7 Q. How did you report it? 8 A. We reported it as a pending 9 order. 10 Q. So of all of the reporting 11 at Schein, before and after Masters, all 12 of the reporting of orders were separated 13 into pending orders separately from 14 suspicious orders? 15 A. I'm sorry, can you restate 16 that question? 17 Q. Sure. 18 Did you report suspicious 19 orders after they were no longer pending? 20 MR. JONES: Objection to 21 form. Vague. 22 THE WITNESS: I'm sorry, I'm 23 not sure I understand the 24 question.</p> | <p style="text-align: right;">Page 60</p> <p>1 A. Yes. 2 Q. Have you seen examples of 3 reports, post-Masters, of pending orders 4 that were again later reported as 5 suspicious orders? 6 A. Yes. 7 Q. And where are those reports 8 maintained? 9 A. Internally in our system. 10 Q. What's the system called? 11 A. It would be JD Edwards and, 12 you know, other local drives in the 13 company. 14 Q. Is that part of your 15 database department that you oversee? 16 A. No. 17 Q. So the database department 18 you oversee is a certain platform, and 19 that manages relationships with 20 customers, correct? 21 A. It's customer maintenance. 22 Q. Okay. And that has no 23 component parts of it that relate to the 24 suspicious order monitoring program,</p> |
| <p style="text-align: right;">Page 59</p> <p>1 BY MR. MIGLIORI: 2 Q. I'll walk you through a 3 hypothetical. 4 After Masters, an order 5 comes in and it deviates from size, 6 frequency or pattern of that customer's 7 prior purchasing history, okay? 8 Are we on the same page? 9 A. Yes. 10 Q. In the system, after 11 Masters, that would be deemed a pending 12 order that was immediately reportable to 13 the DEA, correct? 14 A. Correct. 15 Q. Under Schein's suspicious 16 order monitoring program, that order 17 would then be investigated, that is, 18 there would be a due diligence component 19 to determine whether or not to consider 20 that order suspicious, correct? 21 A. That's correct. 22 Q. If an order, after due 23 diligence, was deemed suspicious, was it 24 again reported to DEA?</p> | <p style="text-align: right;">Page 61</p> <p>1 correct? 2 A. Correct. 3 Q. Separately, a database 4 exists that maintains all of the pending 5 orders that have been reported to DEA and 6 suspicious orders that have been reported 7 to DEA, correct? 8 A. They're in two different 9 databases, but yes. 10 Q. And what are the two 11 databases -- what are the platforms of 12 the two databases for pending orders and 13 suspicious orders? 14 A. The pending orders are housed 15 in our JDE, our ERP system. 16 Q. You have to help me with 17 names. 18 A. So it's JD Edwards, that's 19 our system, our customer master system, 20 which we would store the pending orders. 21 And then the suspicious 22 order letters would be housed on a, like, 23 a local drive, a network drive. 24 Q. Okay. And is that</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 62</p> <p>1 accessible by every employee of the 2 company, that local network drive? 3 A. No. 4 Q. Who has access to those 5 suspended order letters? 6 A. The ones that -- 7 Q. Suspicious order letters, 8 sorry. 9 A. The regulatory affairs team 10 and verifications. 11 Q. All right. So you have 12 access to those? 13 A. Yes. 14 Q. And how far does that 15 database go back, the suspicious orders 16 database? 17 A. I'm not sure. 18 Q. Do you, from time to time, 19 go into that local drive to review 20 suspicious orders? 21 A. Generally not. 22 Q. If a pended orders comes up, 23 do you check your suspicious orders 24 database to see if that customer has</p> | <p style="text-align: right;">Page 64</p> <p>1 MR. JONES: Objection. 2 Form. Vague. 3 THE WITNESS: That we -- 4 sorry, can you clarify that? 5 BY MR. MIGLIORI: 6 Q. You understand you're here 7 as the person with the most knowledge 8 about suspicious orders at Henry Schein, 9 correct? 10 A. Yes. 11 Q. Has it always been the 12 definition of a suspicious order at 13 Schein that the order was pended, 14 investigated and determined to be 15 suspicious and, therefore, required 16 termination with the client? 17 A. For controlled substances, 18 yes. 19 Q. All right. And I appreciate 20 that clarification. Okay. 21 So we were talking about the 22 Masters case. 23 Is it still, pre and post 24 Masters, the understanding -- the</p> |
| <p style="text-align: right;">Page 63</p> <p>1 previously had a suspicious order? 2 A. No. 3 Q. Why not? 4 A. Because they would be 5 disconnected. 6 Q. So in your system at Schein, 7 as of today, if a customer has been 8 subject to a suspicious order, that 9 customer relationship is terminated? 10 A. That's correct. 11 Q. So the definition of a 12 suspicious order, in Henry Schein's 13 suspicious order monitoring program 14 today, is a decision not only that the 15 order was suspicious but a decision to 16 terminate the relationship with the 17 client? 18 A. That's correct. 19 MR. JONES: Objection to 20 form. 21 BY MR. MIGLIORI: 22 Q. All right. Has that always 23 been the definition of suspicious order 24 at Henry Schein?</p> | <p style="text-align: right;">Page 65</p> <p>1 definition at Schein that you only report 2 an order as suspicious if you've gone 3 ahead and terminated the relationship 4 with the client? 5 MR. JONES: Objection. 6 Form. Vague. 7 MR. MIGLIORI: Go ahead. 8 THE WITNESS: No. We are 9 still reporting the order when 10 it's pended to DEA. 11 BY MR. MIGLIORI: 12 Q. And I'm trying to make that 13 distinction. 14 You report pended orders to 15 the DEA when something deviates from 16 size, frequency and pattern, correct? 17 A. Correct. 18 MR. JONES: Again, I'm 19 sorry, we're talking post Masters? 20 MR. MIGLIORI: Right now I'm 21 talking about today, and I'll go 22 back. Yes, post Masters. 23 MR. JONES: Okay. 24 BY MR. MIGLIORI:</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 66</p> <p>1 Q. You report pended orders as</p> <p>2 soon as they pop up as being deviations</p> <p>3 from size, frequency and pattern,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. You do due diligence on</p> <p>7 them. You don't report those as</p> <p>8 suspicious orders, today, until you've</p> <p>9 made a decision that, in fact, it was</p> <p>10 suspicious and terminate the client</p> <p>11 relationship, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And so going back in</p> <p>14 history, has that been the definition of</p> <p>15 a suspicious order at Schein, that is, an</p> <p>16 order that reaches the level that it not</p> <p>17 only deviates from size, frequency and</p> <p>18 pattern, but it also requires termination</p> <p>19 of the relationship with the client?</p> <p>20 MR. JONES: Objection.</p> <p>21 Form. Vague. Overly broad.</p> <p>22 MR. MIGLIORI: Go ahead.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. MIGLIORI:</p> | <p style="text-align: right;">Page 68</p> <p>1 MR. JONES: Objection.</p> <p>2 Form. Objection. Calls for a</p> <p>3 legal conclusion.</p> <p>4 MR. MIGLIORI: Go ahead.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. There was an audit where</p> <p>7 Schein was told, you need to report at</p> <p>8 the time you discover the deviation in</p> <p>9 size, frequency and pattern, wasn't</p> <p>10 there?</p> <p>11 A. An audit? I'm sorry? I</p> <p>12 don't believe so, no.</p> <p>13 Q. Did you review any audits in</p> <p>14 preparation for today, that is, any</p> <p>15 outside vendor audits or reviews of the</p> <p>16 suspicious order monitoring program at</p> <p>17 Schein?</p> <p>18 A. No.</p> <p>19 Q. We'll go through those in a</p> <p>20 minute.</p> <p>21 Okay. Any other changes</p> <p>22 that you recall operationally as a result</p> <p>23 of the Masters decision in 2017?</p> <p>24 MR. JONES: Objection.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 Q. All right. I know that</p> <p>2 there's a timing issue. You mentioned</p> <p>3 timing in this conversation about</p> <p>4 Masters. I have one other timing</p> <p>5 question for you.</p> <p>6 There was a period of time</p> <p>7 at Schein that the pended orders were not</p> <p>8 reported to DEA until 15 days or so after</p> <p>9 the month in which it happened.</p> <p>10 Are you familiar with that</p> <p>11 policy?</p> <p>12 A. We would send the report</p> <p>13 monthly, yes, to the DEA local offices.</p> <p>14 Q. Right. So it could be as</p> <p>15 much as 45 days after the report, if it</p> <p>16 were on the first of the month, those</p> <p>17 reports would go out on the 15th of the</p> <p>18 following month, correct?</p> <p>19 A. The report would go out</p> <p>20 monthly, yes.</p> <p>21 Q. All right. And that process</p> <p>22 was determined to be noncompliant with</p> <p>23 DEA's expectations at some point in the</p> <p>24 process, correct?</p> | <p style="text-align: right;">Page 69</p> <p>1 Form. Overly broad.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. That you can remember.</p> <p>4 A. No.</p> <p>5 Q. The next topic is, How your</p> <p>6 interpretation and compliance with the</p> <p>7 reporting requirement has changed over</p> <p>8 time.</p> <p>9 We've talked a little bit</p> <p>10 about that. You're designated here for</p> <p>11 that topic.</p> <p>12 Would you also include</p> <p>13 Sergio and Frank as people who would have</p> <p>14 equal or superior knowledge about that?</p> <p>15 A. Yes.</p> <p>16 Q. And we'll get into the more</p> <p>17 specifics of that a little later.</p> <p>18 F, on Page 9, you're here to</p> <p>19 talk about how your interpretation and</p> <p>20 compliance with the shipping requirement</p> <p>21 has changed over time. And, again, on</p> <p>22 Page 10, you're designated as the person</p> <p>23 to testify on this topic.</p> <p>24 Do you understand what the</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 70</p> <p>1 shipping requirement is?</p> <p>2 A. Yes.</p> <p>3 Q. What do you understand it to</p> <p>4 be?</p> <p>5 A. That due diligence needs to</p> <p>6 be conducted prior to the shipment of an</p> <p>7 order, to dispel any suspicion.</p> <p>8 Q. If an order is pended in</p> <p>9 your system, is it halted --</p> <p>10 A. Yes.</p> <p>11 Q. -- today?</p> <p>12 Has that always been the</p> <p>13 case?</p> <p>14 A. Yes.</p> <p>15 Q. So if you have a pended</p> <p>16 order, is the whole order pended or just</p> <p>17 a component part of the order, today?</p> <p>18 A. The whole order is pended.</p> <p>19 Q. Has that always been the</p> <p>20 case?</p> <p>21 A. Yes.</p> <p>22 Q. And as subject to due</p> <p>23 diligence -- would you report that pended</p> <p>24 order, by the way?</p> | <p style="text-align: right;">Page 72</p> <p>1 were not reported?</p> <p>2 A. They were reported monthly.</p> <p>3 Q. Monthly, but not immediately</p> <p>4 upon discovery, correct?</p> <p>5 MR. JONES: Objection.</p> <p>6 Form. Vague.</p> <p>7 THE WITNESS: They were</p> <p>8 reported when they pended.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. Prior to Masters, they</p> <p>11 reported at the end of every month as a</p> <p>12 single report, correct?</p> <p>13 A. Correct.</p> <p>14 Q. After Masters, they reported</p> <p>15 as they pended, that is, when they were</p> <p>16 discovered, correct?</p> <p>17 MR. JONES: Objection.</p> <p>18 Form. Vague as to "discovered."</p> <p>19 MR. MIGLIORI: Well, I can</p> <p>20 show you the statute.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. But when did an order</p> <p>23 pend -- a pended order get reported,</p> <p>24 after Masters?</p> |
| <p style="text-align: right;">Page 71</p> <p>1 A. Can you repeat that part?</p> <p>2 Q. Yes. Strike all of that. I</p> <p>3 changed my thought in the middle of it.</p> <p>4 Do you report the pended</p> <p>5 order before you do the due diligence?</p> <p>6 A. I'm sorry, the timing we're</p> <p>7 talking about?</p> <p>8 Q. Today.</p> <p>9 A. Today. That's correct, yes.</p> <p>10 Q. And that's evolved over</p> <p>11 time; that wasn't always the case,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. Do you recall exactly, or</p> <p>15 roughly, when that change occurred?</p> <p>16 A. Where we pended -- where we</p> <p>17 reported every pended order?</p> <p>18 Q. Yes.</p> <p>19 A. It was some time in February</p> <p>20 of 2018.</p> <p>21 Q. And was that a result of, at</p> <p>22 least in part, the Masters decision?</p> <p>23 A. Yes.</p> <p>24 Q. Prior to that, pended orders</p> | <p style="text-align: right;">Page 73</p> <p>1 A. The day -- the day that</p> <p>2 it -- the day after it pended.</p> <p>3 Q. Within 24 hours of it being</p> <p>4 discovered?</p> <p>5 A. Correct.</p> <p>6 Q. All right. So the question</p> <p>7 I think I had asked was, at what point</p> <p>8 did shipment -- strike that.</p> <p>9 Have all pended orders been</p> <p>10 halted from shipment at the time that</p> <p>11 they were pended, that is -- strike that.</p> <p>12 I'm actually going to read it.</p> <p>13 That's really terrible.</p> <p>14 An order gets pended --</p> <p>15 MR. JONES: No objection.</p> <p>16 MR. MIGLIORI: I think we</p> <p>17 can stipulate to that.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. If an order is pended today,</p> <p>20 that order is halted, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And the shipping requirement</p> <p>23 that we're talking about here is the</p> <p>24 decision to ship or not ship after some</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 74</p> <p>1 level of due diligence, correct?</p> <p>2 A. Correct.</p> <p>3 Q. By the way, on due</p> <p>4 diligence, due diligence is a process of</p> <p>5 knowing your customer, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Early in time, that involved</p> <p>8 sending a letter and the customer sending</p> <p>9 back responses to a one-page letter,</p> <p>10 correct?</p> <p>11 A. At what period? I'm sorry.</p> <p>12 Q. Early on --</p> <p>13 A. Early on, yes.</p> <p>14 Q. -- 2005, when you first</p> <p>15 started with the company.</p> <p>16 A. Correct, yes.</p> <p>17 Q. That process evolved over</p> <p>18 time and, really, in 2009, a due</p> <p>19 diligence program was in place that</p> <p>20 involved things like on-site visits and</p> <p>21 interviews and the like, correct?</p> <p>22 MR. JONES: Objection.</p> <p>23 Form. Overly broad. Vague.</p> <p>24 BY MR. MIGLIORI:</p> | <p style="text-align: right;">Page 76</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. And the due diligence files,</p> <p>3 where are they maintained in Schein?</p> <p>4 A. In our JDE system, our</p> <p>5 customer system.</p> <p>6 Q. And that system is</p> <p>7 maintained by who?</p> <p>8 A. The whole company. The</p> <p>9 entire company.</p> <p>10 Q. Is there a manager of it?</p> <p>11 A. Our IT team. I'm not sure</p> <p>12 if there's somebody specifically.</p> <p>13 Q. So you can sit at your desk</p> <p>14 and log into the due diligence files of</p> <p>15 all of your customers?</p> <p>16 A. Me personally?</p> <p>17 Q. Yes, you personally.</p> <p>18 A. Yes.</p> <p>19 Q. And that's because of your</p> <p>20 role within verification?</p> <p>21 A. Correct.</p> <p>22 Q. And folks in regulatory can</p> <p>23 do that as well, correct?</p> <p>24 A. Yes.</p> |
| <p style="text-align: right;">Page 75</p> <p>1 Q. Correct?</p> <p>2 A. Correct.</p> <p>3 Q. All right. And an important</p> <p>4 component part of due diligence and</p> <p>5 knowing your customer is not just the</p> <p>6 investigation but documentation of that</p> <p>7 investigation, correct?</p> <p>8 A. Correct.</p> <p>9 Q. There's an adage that, "if</p> <p>10 it's not written down, it didn't happen."</p> <p>11 Is that a component part of</p> <p>12 the Schein due diligence suspicious order</p> <p>13 monitoring program?</p> <p>14 MR. JONES: Objection.</p> <p>15 Form. Vague.</p> <p>16 THE WITNESS: Depending on</p> <p>17 the time period.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. When would that have become</p> <p>20 the rule?</p> <p>21 MR. JONES: Objection.</p> <p>22 Form.</p> <p>23 THE WITNESS: I would say</p> <p>24 post 2009.</p> | <p style="text-align: right;">Page 77</p> <p>1 Q. And those due diligence</p> <p>2 files, do they exist for every customer</p> <p>3 of Schein?</p> <p>4 A. Yes.</p> <p>5 Q. And how long are those files</p> <p>6 maintained?</p> <p>7 A. They've never been --</p> <p>8 they've never been purged.</p> <p>9 Q. So if you have a doctor that</p> <p>10 you have been supplying controlled</p> <p>11 substances to for 15 years, you should</p> <p>12 have all of your due diligence</p> <p>13 interactions with that doctor going back</p> <p>14 the entire time, correct?</p> <p>15 A. Clarification. We used to</p> <p>16 have an older system that was purged a</p> <p>17 number of years ago.</p> <p>18 Everything, I would say,</p> <p>19 since 2009 or so, it still exists. Prior</p> <p>20 documents have been purged.</p> <p>21 Q. What was the name of the</p> <p>22 other system?</p> <p>23 A. It was a microfilm system.</p> <p>24 Q. Like the old library, you</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 78</p> <p>1 got --</p> <p>2 A. With the reels, yes.</p> <p>3 Q. Okay. Great. Thank God I</p> <p>4 don't do that part of the business</p> <p>5 anymore.</p> <p>6 And when you say they were</p> <p>7 purged, they were just discarded?</p> <p>8 A. Sorry?</p> <p>9 Q. They were discarded?</p> <p>10 A. Yes. Everything on the</p> <p>11 reels was discarded.</p> <p>12 Q. So if you had a doctor that</p> <p>13 had an event that was investigated before</p> <p>14 2009, there is no place in the company to</p> <p>15 find out what the outcome of that</p> <p>16 investigation was?</p> <p>17 A. We have internal notes in</p> <p>18 the system, but not the actual documents</p> <p>19 themselves.</p> <p>20 Q. Okay. So something from the</p> <p>21 earlier years is maintained in the JDE</p> <p>22 system reflecting what happened prior in</p> <p>23 the now-purged, older due diligence</p> <p>24 files?</p> | <p style="text-align: right;">Page 80</p> <p>1 A. I'm not sure of its</p> <p>2 location. But it can be accessed, yes.</p> <p>3 Q. So you would tell Sergio,</p> <p>4 I'll go look at the due diligence files</p> <p>5 in the imaging system?</p> <p>6 A. Yes.</p> <p>7 Q. And you can make whatever</p> <p>8 decisions about the shipping requirements</p> <p>9 or the suspicious order reporting</p> <p>10 requirements, in part, by going into that</p> <p>11 system to find out the history of that</p> <p>12 particular doctor or healthcare facility,</p> <p>13 correct?</p> <p>14 A. For the shipping</p> <p>15 requirement, yes.</p> <p>16 Q. What about for -- I said</p> <p>17 shipping, but I also mentioned for</p> <p>18 reporting requirements.</p> <p>19 Are there some components of</p> <p>20 whether to report that are also in that</p> <p>21 database?</p> <p>22 MR. JONES: Objection.</p> <p>23 Form. Vague.</p> <p>24 BY MR. MIGLIORI:</p> |
| <p style="text-align: right;">Page 79</p> <p>1 A. Yes.</p> <p>2 Q. And so for you to access Dr.</p> <p>3 Jones's due diligence file today, how</p> <p>4 would you do it physically? What do you</p> <p>5 do?</p> <p>6 A. It's a keystroke in the</p> <p>7 system to retrieve an image.</p> <p>8 Q. And are those images also</p> <p>9 associated with internal discussion about</p> <p>10 investigations and follow-ups and</p> <p>11 interviews and deficiencies and the like?</p> <p>12 A. It would be everything about</p> <p>13 that customer.</p> <p>14 Q. Okay. And is there a name</p> <p>15 of that system? When you talk to Sergio</p> <p>16 and you say, I don't know, I'll go check,</p> <p>17 I'm going to go look in X.</p> <p>18 What is that X?</p> <p>19 A. We just refer to it as our</p> <p>20 imaging database or system.</p> <p>21 Q. Okay. And so in your</p> <p>22 imaging database, in the -- locally</p> <p>23 housed, right? That server is onsite in</p> <p>24 Melville?</p> | <p style="text-align: right;">Page 81</p> <p>1 Q. As part of your due</p> <p>2 diligence to look at the history, the</p> <p>3 dispensing history, and investigations of</p> <p>4 that doctor in that database.</p> <p>5 A. For due diligence, yes.</p> <p>6 Q. Okay. Fair enough.</p> <p>7 And Know Your Customer</p> <p>8 generally?</p> <p>9 A. Correct.</p> <p>10 Q. All right. Next topic, G,</p> <p>11 whether you historically ship suspicious</p> <p>12 orders without conducting due diligence</p> <p>13 prior to Masters.</p> <p>14 We've talked about this a</p> <p>15 little bit. You are listed here as the</p> <p>16 person with most knowledge.</p> <p>17 MR. JONES: Just to be</p> <p>18 clear, I mean, you keep asking if</p> <p>19 he's with most knowledge. I mean,</p> <p>20 he's here as a 30(b)(6)</p> <p>21 representative.</p> <p>22 So -- I think that's</p> <p>23 probably what you're getting at,</p> <p>24 but I just want to make sure the</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 82</p> <p>1 record is clear.</p> <p>2 MR. MIGLIORI: Sure. We can</p> <p>3 rely on the statute for what it</p> <p>4 means.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. You're listed here as the</p> <p>7 person to talk about it, right?</p> <p>8 A. Right.</p> <p>9 Q. And people with equal or</p> <p>10 superior knowledge to you about that</p> <p>11 include Sergio and Frank, from regulatory</p> <p>12 affairs, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And in this topic of</p> <p>15 shipping suspicious orders, is it fair to</p> <p>16 say that, given the definitions you've</p> <p>17 given me today about what is a suspicious</p> <p>18 order versus a pending order, that,</p> <p>19 historically, Schein did not ship</p> <p>20 suspicious orders prior to the Masters</p> <p>21 decision?</p> <p>22 A. We don't ship suspicious</p> <p>23 orders.</p> <p>24 Q. All right. We'll get into</p> | <p style="text-align: right;">Page 84</p> <p>1 and metrics used to identify orders of</p> <p>2 unusual size, orders deviating</p> <p>3 substantially from normal pattern, and</p> <p>4 orders of unusual frequency.</p> <p>5 You're listed here. I</p> <p>6 assume Sergio and Frank are also people</p> <p>7 with knowledge on this topic?</p> <p>8 A. I would say Sergio.</p> <p>9 Q. Okay. And of that, you're</p> <p>10 saying that -- you understand that the</p> <p>11 language of unusual size, pattern and</p> <p>12 frequency, that that comes out of what's</p> <p>13 called the Controlled Substances Act?</p> <p>14 A. Yes.</p> <p>15 Q. All right. And you know</p> <p>16 that that act was -- became effective, as</p> <p>17 amended for this purpose, in 1971?</p> <p>18 A. Yes.</p> <p>19 Q. And that's been the law</p> <p>20 since 1971?</p> <p>21 A. Yes.</p> <p>22 Q. And, that is, the statutory</p> <p>23 definition of suspicious order under the</p> <p>24 Act?</p> |
| <p style="text-align: right;">Page 83</p> <p>1 that a little more later, too.</p> <p>2 H -- we're almost done with</p> <p>3 this -- Your past and present policies</p> <p>4 related to due diligence following the</p> <p>5 detection of a suspicious order.</p> <p>6 So you are listed here. I</p> <p>7 assume Frank and Sergio could also talk</p> <p>8 on this topic as well?</p> <p>9 A. Yes.</p> <p>10 Q. And based on what you've</p> <p>11 told me so far, would it be a true</p> <p>12 statement that due diligence, in the</p> <p>13 Schein system, was done before detection</p> <p>14 of a suspicious order and not after?</p> <p>15 A. Correct.</p> <p>16 Q. That is, you didn't consider</p> <p>17 an order suspicious until you conducted</p> <p>18 due diligence and that due diligence</p> <p>19 found that it was an order that should</p> <p>20 not be shipped --</p> <p>21 A. That's right.</p> <p>22 Q. -- is that correct?</p> <p>23 The next topic, I, Your past</p> <p>24 and present policy, procedures, standards</p> | <p style="text-align: right;">Page 85</p> <p>1 MR. JONES: Objection.</p> <p>2 Form. Misstates the law.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. All right. And you're here</p> <p>6 to talk about those policies and</p> <p>7 procedures and how they've changed over</p> <p>8 time, correct?</p> <p>9 A. Correct.</p> <p>10 Q. How your policies,</p> <p>11 procedures, standards, and metrics used</p> <p>12 to identify suspicious orders has changed</p> <p>13 over time.</p> <p>14 I don't even know how that's</p> <p>15 different from the other, but you're here</p> <p>16 for that?</p> <p>17 A. Yes.</p> <p>18 Q. All right. Subject K, on</p> <p>19 Page 13, Your policies, procedures,</p> <p>20 standards and metrics used to set and/or</p> <p>21 alter thresholds.</p> <p>22 Are you familiar with the</p> <p>23 process of setting a threshold?</p> <p>24 A. Yes.</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 86</p> <p>1 Q. And you understand what a 2 threshold is?</p> <p>3 A. Yes.</p> <p>4 Q. Are thresholds today at 5 Schein calculated on an individual 6 customer basis?</p> <p>7 A. No.</p> <p>8 Q. Have they ever been 9 calculated based on an individual's 10 dispensing or purchasing history?</p> <p>11 A. No.</p> <p>12 Q. At Schein, it has always 13 been the policy to set thresholds based 14 on groups of physicians or similar 15 practitioners and their dispensing or 16 ordering histories, correct?</p> <p>17 A. Depending on the time frame.</p> <p>18 Q. Right. And so -- but it's 19 never been the case that a suspicious 20 order threshold has been set based on the 21 individual's ordering practices himself 22 or herself, correct?</p> <p>23 A. We did begin to set 24 individual thresholds earlier this year.</p> | <p style="text-align: right;">Page 88</p> <p>1 Form. Vague.</p> <p>2 THE WITNESS: I'm sorry, 3 could you restate that question?</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. Are you familiar with any 6 changes over time with respect to what 7 level person within the company could not 8 just perform the due diligence but also 9 clear a new client for controlled 10 substances?</p> <p>11 A. Yes.</p> <p>12 Q. All right. And those due 13 diligence files for onboarding of new 14 customers, are those maintained in the 15 same place that we've discussed earlier, 16 in the imaging files of the company in 17 the JWE system?</p> <p>18 A. Yes.</p> <p>19 Q. Let me just ask a question 20 in particular about it.</p> <p>21 Today, if a doctor had a 22 prior history of criminal conviction for 23 a drug-related offense, today, under 24 Schein's system, would that client be</p> |
| <p style="text-align: right;">Page 87</p> <p>1 Q. In 2018?</p> <p>2 A. In 2018.</p> <p>3 Q. Okay. Prior to that, it had 4 always been aggregated, correct?</p> <p>5 A. Correct.</p> <p>6 Q. L, Your policies and 7 procedures used to perform due diligence 8 related to new and existing buyers of 9 controlled substances.</p> <p>10 You're here to talk about 11 the onboarding of new clients.</p> <p>12 Do you understand that?</p> <p>13 A. Yes.</p> <p>14 Q. And in that process, that 15 changes over time at Schein about what, 16 if any, due diligence needed to be done 17 for bringing a new client on board, 18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. And who, at what level in 21 the company, was best suited to make 22 decisions about due diligence relative to 23 a new client, correct?</p> <p>24 MR. JONES: Objection.</p> | <p style="text-align: right;">Page 89</p> <p>1 allowed to become a customer of the 2 company?</p> <p>3 MR. JONES: Objection.</p> <p>4 Form. Vague.</p> <p>5 THE WITNESS: Potentially.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. And what would be the 8 analysis?</p> <p>9 A. We would go through our Know 10 Your Customer due diligence process.</p> <p>11 Q. And if that client -- if 12 that doctor client lost his or her 13 license as a result of that conviction 14 and got his or her license back, would 15 that change whether or not that client 16 would be allowed to purchase controlled 17 substances from Schein?</p> <p>18 MR. JONES: Objection.</p> <p>19 Form.</p> <p>20 THE WITNESS: Well, they 21 would have to have a license in 22 order to purchase from us.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. Is that the only thing that</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 90</p> <p>1 they need to demonstrate?</p> <p>2 A. No.</p> <p>3 Q. What else do they need to</p> <p>4 demonstrate, with that history?</p> <p>5 A. We need to show that the due</p> <p>6 diligence supports that customer</p> <p>7 purchasing those products.</p> <p>8 Q. And within due diligence,</p> <p>9 what are you looking for, that a person</p> <p>10 with a felony criminal conviction for a</p> <p>11 drug-related offense and a loss of</p> <p>12 medical licensure, with a renewed</p> <p>13 license, looking to come back on board as</p> <p>14 a customer, what else are you looking for</p> <p>15 in due diligence to say, yes, that's a</p> <p>16 customer that Schein will take?</p> <p>17 MR. JONES: Object to the</p> <p>18 form.</p> <p>19 THE WITNESS: It would be on</p> <p>20 a case-by-case basis. There's</p> <p>21 nothing specific, per se.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. You perform due diligence</p> <p>24 and you oversee people that perform due</p> | <p style="text-align: right;">Page 92</p> <p>1 and nobody else in the office has</p> <p>2 drug-related offenses, is that enough?</p> <p>3 A. It's hard to say without a</p> <p>4 specific set of circumstances that we</p> <p>5 would evaluate.</p> <p>6 Q. How many times, in your</p> <p>7 experience, or within the company, to</p> <p>8 your knowledge, has Schein taken back or</p> <p>9 started a new relationship with a doctor</p> <p>10 that lost a license and had a prior</p> <p>11 felony conviction for a drug-related</p> <p>12 offense?</p> <p>13 A. I would say not very many.</p> <p>14 Q. Less than ten?</p> <p>15 A. I would say so, yes.</p> <p>16 Q. Do you know of any in the</p> <p>17 state of Ohio?</p> <p>18 A. Not to my recollection, no.</p> <p>19 Q. All right. Category M --</p> <p>20 there's only two more -- Your past,</p> <p>21 present programs, policies and procedures</p> <p>22 relating to the maintenance of effective</p> <p>23 controls against diversion.</p> <p>24 Are you the person here to</p> |
| <p style="text-align: right;">Page 91</p> <p>1 diligence, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And you -- have you</p> <p>4 experienced doctors who have lost their</p> <p>5 license and have served felony</p> <p>6 convictions for drug-related offenses who</p> <p>7 have then come out and become a new</p> <p>8 customer of Schein?</p> <p>9 A. Yes.</p> <p>10 Q. And what about that</p> <p>11 customer, in your experience, made that a</p> <p>12 person that you felt was an appropriate</p> <p>13 client for Schein?</p> <p>14 A. In many cases, you know, as</p> <p>15 I said, we go through the due diligence</p> <p>16 process. And depending on the severity</p> <p>17 of the offense.</p> <p>18 Q. Okay. And what in the due</p> <p>19 diligence do you ask? Are there special</p> <p>20 questions you ask that new client?</p> <p>21 A. We would go through pretty</p> <p>22 much a similar process. A customer could</p> <p>23 receive an on-site audit, potentially.</p> <p>24 Q. So if the office is clear</p> | <p style="text-align: right;">Page 93</p> <p>1 talk about that program?</p> <p>2 A. Yes.</p> <p>3 Q. And do you understand that</p> <p>4 program at Schein to effectively be the</p> <p>5 suspicious order monitoring program and</p> <p>6 its history?</p> <p>7 MR. JONES: Objection to the</p> <p>8 form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. Is there any other program</p> <p>12 within Schein, aside from the suspicious</p> <p>13 order monitoring program, that we'll</p> <p>14 speak about today, that you fit -- you</p> <p>15 think would also be included in a program</p> <p>16 for maintaining effective controls</p> <p>17 against diversion?</p> <p>18 A. License verification.</p> <p>19 Q. So the suspicious order</p> <p>20 monitoring program and the license</p> <p>21 verification program are the two</p> <p>22 component parts of Schein's maintenance</p> <p>23 and effective control against diversion;</p> <p>24 is that a fair statement?</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 94</p> <p>1 A. Including Know Your Customer 2 due diligence, yes. 3 Q. Which is within -- 4 A. Which is within the 5 suspicious order monitoring. 6 Q. And then the last topic is, 7 Your past and present interpretation, 8 agreement or disagreement with the 9 positions or arguments asserted in the 10 brief related to HDMA. 11 Your counsel says in here 12 that nobody is going to present on this. 13 I'm okay with that for now. 14 But let me ask you a 15 question about the HDMA. 16 Are you familiar with the 17 Healthcare Distributor Management 18 Association, or the -- what's now called 19 Healthcare Distribution -- Distributors 20 Association? 21 A. I know who they are, yes. 22 Q. Are you an active member of 23 it yourself? 24 A. No.</p> | <p style="text-align: right;">Page 96</p> <p>1 conversation. 2 Q. And do you know who that 3 conversation would have been with, if you 4 had one? 5 A. It would have been with 6 Sergio Tejada. 7 Q. Okay. Are you familiar 8 with -- he's a very good-looking guy -- 9 Louis Ferraro? 10 A. I know him, yes. 11 Q. And he's a vice president 12 today of generic pharmaceutical sourcing 13 and administration at Henry Schein? 14 A. I believe so, yes. 15 Q. And he also sits on the 16 board of the HDA. 17 Are you aware of that? 18 A. I am now, yes. 19 Q. Have you ever had any 20 conversations with him about the HDA or 21 the guidances as it relates to suspicious 22 order monitoring programs? 23 A. No. 24 Q. The last part of this notice</p> |
| <p style="text-align: right;">Page 95</p> <p>1 Q. You understand that Henry 2 Schein, Inc. is a member of the HDA? 3 A. Yes. 4 Q. And, in fact, you have a 5 person that sits on the board of the 6 HDMA? 7 A. I'm not sure who it is. 8 Q. Okay. Have you ever 9 attended an HDMA event? Seminar? 10 A. No. 11 Q. Are you familiar with the 12 HDA's guidance relative to suspicious 13 order monitoring programs that was issued 14 in 2008? 15 A. Not directly. Maybe through 16 conversations with regulatory. 17 Q. And so when you started to 18 get trained in late October, I guess, of 19 2009 on suspicious order monitoring 20 programs, do you recall ever being shown 21 or taught that the HDA issued a guidance 22 for all distributors in the United 23 States? 24 A. Maybe through a</p> | <p style="text-align: right;">Page 97</p> <p>1 I sent you in Exhibit-2 has a component 2 that is asking you to bring documents 3 with you that you rely on. 4 Did you bring any documents 5 with you today? 6 A. No, I did not. 7 Q. The documents that you 8 reviewed in preparation for today, were 9 they given to you in a binder of some 10 sort, or were they just shared with you 11 one by one? 12 A. In a binder. 13 Q. And did you take that binder 14 home in between your meetings and review 15 them? 16 A. Yes. 17 Q. And do you still maintain 18 that binder? 19 A. Yes. 20 Q. But as you sit here today, 21 you haven't brought any documents with 22 you that you used to help you educate 23 yourself to serve in this role as a 24 person knowledgeable on these various</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 98</p> <p>1 topics?</p> <p>2 A. Correct.</p> <p>3 MR. MIGLIORI: Do you want</p> <p>4 to take a break? I can keep</p> <p>5 going, or we can take a break.</p> <p>6 It's been about an hour and 15.</p> <p>7 MR. JONES: If you're at a</p> <p>8 stopping point.</p> <p>9 VIDEO TECHNICIAN: The time</p> <p>10 is now 10:19 a.m. We're going off</p> <p>11 the record.</p> <p>12 - - -</p> <p>13 (Whereupon, a brief recess</p> <p>14 was taken.)</p> <p>15 - - -</p> <p>16 VIDEO TECHNICIAN: The time</p> <p>17 is now 10:35 a.m. We are back on</p> <p>18 the record.</p> <p>19 - - -</p> <p>20 (Whereupon, Exhibit</p> <p>21 Schein-Abreu-3, Amended Objections</p> <p>22 and Responses to Plaintiffs'</p> <p>23 First Combined Discovery Requests,</p> <p>24 was marked for identification.)</p> | <p style="text-align: right;">Page 100</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. The internal local drives of</p> <p>4 the company, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Any other systems?</p> <p>7 A. No. I don't believe so, no.</p> <p>8 Q. Do you maintain any reports,</p> <p>9 data -- strike that.</p> <p>10 So you have a platform for</p> <p>11 your customer client bases, correct?</p> <p>12 A. Right.</p> <p>13 Q. And what do we call that</p> <p>14 again?</p> <p>15 A. I'm sorry?</p> <p>16 Q. What's the name of the</p> <p>17 database that you oversee for clients?</p> <p>18 A. For -- JD Edwards.</p> <p>19 Q. That's all part of the same</p> <p>20 database?</p> <p>21 A. Yes.</p> <p>22 Q. Any other platforms that you</p> <p>23 would look to, to answer any questions</p> <p>24 about where documents are, other than</p> |
| <p style="text-align: right;">Page 99</p> <p>1 - - -</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. I'm going to do this very</p> <p>4 quickly, but in this case, we received</p> <p>5 some documents responsive to certain</p> <p>6 questions from your company. This</p> <p>7 Exhibit Number 3 is the document that</p> <p>8 references what's been produced, in part,</p> <p>9 okay?</p> <p>10 A. Okay.</p> <p>11 Q. Have you, first of all, seen</p> <p>12 this document before?</p> <p>13 A. This document --</p> <p>14 Q. Yes.</p> <p>15 A. -- here?</p> <p>16 I don't believe so, no.</p> <p>17 Q. Do you know whether you</p> <p>18 participated in gathering documents that</p> <p>19 are responsive to our request for</p> <p>20 information, documents?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And the sources of</p> <p>23 information that you went to, to help</p> <p>24 find documents, included the JWE system,</p> | <p style="text-align: right;">Page 101</p> <p>1 those that you've mentioned?</p> <p>2 A. No. Just, maybe, something</p> <p>3 on my own computer, but --</p> <p>4 Q. Do employees of Schein</p> <p>5 maintain documents locally on their own</p> <p>6 computers that are not connected to a</p> <p>7 main server?</p> <p>8 A. Yes.</p> <p>9 Q. And do employees of Schein</p> <p>10 maintain documents, hard copies of</p> <p>11 documents, in their own files that are</p> <p>12 not part of a computerized system?</p> <p>13 A. Yes.</p> <p>14 Q. Yes?</p> <p>15 A. Yes.</p> <p>16 Q. Did you do any searching in</p> <p>17 the hard files or the local computers of</p> <p>18 certain employees in efforts to help be</p> <p>19 responsive to document requests?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And were all of</p> <p>22 those searches, on your part, directed by</p> <p>23 counsel for you, that is, were they</p> <p>24 specific instructions that you received</p> |

Page 102

1 to look for certain things?

2 A. Yes.

3 Q. And over what period of time

4 did you do that?

5 A. Sorry, the timeline for the

6 request, or the time period for me to do

7 it?

8 Q. Your effort to do it.

9 When did you do that?

10 A. I guess it's been over the

11 last couple of months.

12 Q. And did you produce, in

13 fact, documents that were responsive to

14 certain requests?

15 A. Yes.

16 Q. Do you know anybody else in

17 your company that was also asked to

18 perform that same task, to your

19 knowledge?

20 A. Yes.

21 Q. Who else?

22 A. It would be Sergio Tejeda

23 and, I believe, Frank O'Regan as well.

24 Q. Anyone else you can think

Page 103

1 of?

2 A. I don't think so, no.

3 Q. If you go to Page 6 of this

4 Exhibit-3, there's a response to the

5 first question asking for transactional

6 data of the company.

7 Do you have access yourself

8 to the transactional data of Henry

9 Schein?

10 A. Yes.

11 Q. And where is that

12 information stored and located?

13 A. It would be in our JDE

14 system.

15 Q. JDE system?

16 A. Yes.

17 Q. Have I been saying a

18 different letter?

19 A. Have you?

20 Q. Maybe.

21 So if I said JWE, it would

22 be -- I would be wrong, that it's the JDE

23 system?

24 A. Yes, yes.

Page 104

1 Q. And there's only one system

2 that begins with a J and ends with an E,

3 correct?

4 A. I think so.

5 Q. All right. I just want to

6 make sure. I apologize.

7 So you go into the JDE

8 system to find transactional data?

9 A. Correct.

10 Q. And how far back does the

11 transactional data go, to your knowledge?

12 A. It went back to 2009,

13 January of 2009.

14 Q. Do you know what happened to

15 the transactional data before 2009?

16 A. It would have been purged.

17 Q. And what system was it on at

18 that point?

19 A. Sorry?

20 Q. Was it on a different

21 platform then?

22 A. No. It still would have

23 been on JDE.

24 Q. It was just purged because

Page 105

1 it was -- a decision was made to purge

2 prior to 2009?

3 A. Yes. It would have been

4 from our IT team.

5 Q. And do you know when that

6 purging happened?

7 A. No, I don't.

8 Q. Do you know the retention

9 policy of the company relative to

10 transactional data?

11 A. I'm familiar with the

12 retention policy, yes.

13 Q. What is your understanding

14 of it?

15 A. My understanding, I believe,

16 is seven years.

17 Q. Would that apply to

18 suspicious order monitoring records as

19 well?

20 A. I don't believe those are

21 purged to the best of my --

22 Q. So if there was a suspicious

23 order within the Henry Schein company, to

24 your knowledge, that information would

| | |
|---|--|
| <p style="text-align: right;">Page 106</p> <p>1 not have been purged?</p> <p>2 A. After 2009.</p> <p>3 Q. After 2009.</p> <p>4 Prior to 2009, were the</p> <p>5 suspicious orders -- is this what was on</p> <p>6 the microfilm, or was this something</p> <p>7 else?</p> <p>8 A. No. It's something else.</p> <p>9 Q. So a decision was made, at</p> <p>10 some point, to purge the transactional</p> <p>11 data and the suspicious order monitoring</p> <p>12 data prior to 2009?</p> <p>13 A. I guess, yes.</p> <p>14 Q. And it's your understanding</p> <p>15 that both of those types of information</p> <p>16 were purged at the same time?</p> <p>17 A. That, I don't know.</p> <p>18 Q. But do you think the start</p> <p>19 date for the purge or the end date for</p> <p>20 the purge would be the same?</p> <p>21 A. I just know that we have the</p> <p>22 data from January 2009 going forward.</p> <p>23 Q. Have you asked whether that</p> <p>24 data prior to 2009 was stored or backed</p> | <p style="text-align: right;">Page 108</p> <p>1 A. Referring to SOPs?</p> <p>2 Q. Correct.</p> <p>3 A. Correct.</p> <p>4 Q. All right. So databases</p> <p>5 relative to clients' suspicious orders</p> <p>6 transactions were purged for all records</p> <p>7 prior to 2009?</p> <p>8 MR. JONES: And I'm just</p> <p>9 going to make an objection. This</p> <p>10 is outside the scope for which</p> <p>11 he's designated as a 30(b)(6)</p> <p>12 witness.</p> <p>13 I assume you're asking him</p> <p>14 his personal understanding.</p> <p>15 MR. MIGLIORI: I don't think</p> <p>16 so. Because I asked -- it asks</p> <p>17 about past and present suspicious</p> <p>18 orders. I'm trying to keep it to</p> <p>19 the topics that we're talking</p> <p>20 about.</p> <p>21 MR. JONES: I'm not sure --</p> <p>22 I'm sorry. Go ahead.</p> <p>23 MR. MIGLIORI: Transactions</p> <p>24 are related because the</p> |
| <p style="text-align: right;">Page 107</p> <p>1 up somewhere else?</p> <p>2 A. Yes.</p> <p>3 Q. And what was the answer to</p> <p>4 that question?</p> <p>5 A. That we don't have it.</p> <p>6 Q. And who gave you that</p> <p>7 answer?</p> <p>8 A. Our IT team.</p> <p>9 Q. Who at the IT team?</p> <p>10 A. The director, I believe, of</p> <p>11 IT.</p> <p>12 Q. And that director's name is</p> <p>13 what?</p> <p>14 A. Gavin Dsouza.</p> <p>15 Q. Could you spell the last</p> <p>16 name?</p> <p>17 A. I think it's D-S-O-U-Z-A.</p> <p>18 Q. Same for pending orders,</p> <p>19 would those have been purged prior to</p> <p>20 2009, pending orders?</p> <p>21 A. Yes.</p> <p>22 Q. But policies, procedures,</p> <p>23 those types of documents were not purged,</p> <p>24 correct?</p> | <p style="text-align: right;">Page 109</p> <p>1 transactions are what are being</p> <p>2 monitored. Suspicious orders</p> <p>3 would be the -- those that didn't</p> <p>4 make it through the system and the</p> <p>5 pending orders would be something</p> <p>6 in the middle.</p> <p>7 So I'm not trying to be</p> <p>8 obstreperous or short-circuit this</p> <p>9 process. I think they are within</p> <p>10 the scope of his testimony.</p> <p>11 MR. JONES: And I understand</p> <p>12 where you're coming from. Insofar</p> <p>13 as he's answering questions about</p> <p>14 the nuances of the technology and</p> <p>15 policies related to overall</p> <p>16 document policies, you know,</p> <p>17 that's probably something that</p> <p>18 he's not here to testify about.</p> <p>19 But, obviously, if he knows</p> <p>20 in his personal capacity, he can</p> <p>21 tell you.</p> <p>22 MR. MIGLIORI: Right now I'm</p> <p>23 just more interested in the</p> <p>24 information, anyway.</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 110</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. So if it's only based on</p> <p>3 your understanding, I'm okay with that</p> <p>4 answer, and you can tell me that.</p> <p>5 But my question is simply,</p> <p>6 the transactional data of Henry Schein</p> <p>7 relative to controlled substances, the</p> <p>8 pending orders that were reported and the</p> <p>9 suspicious orders that were deemed and</p> <p>10 reported, those files, those records at</p> <p>11 Henry Schein are all purged if they are</p> <p>12 prior to 2009; is that your</p> <p>13 understanding?</p> <p>14 A. That's my understanding.</p> <p>15 Q. All right. The policies and</p> <p>16 procedures, the handbooks, the revisions,</p> <p>17 those were not purged, to your knowledge,</p> <p>18 in 2009, correct?</p> <p>19 A. Correct.</p> <p>20 Q. You've reviewed a lot of</p> <p>21 those procedures that predate 2009,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. And the person that would</p> | <p style="text-align: right;">Page 112</p> <p>1 system to do that?</p> <p>2 A. Yes.</p> <p>3 Q. And who would you ask to do</p> <p>4 that, if you had to run that report?</p> <p>5 A. Our IT team.</p> <p>6 Q. And starting with the</p> <p>7 director?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And if you look</p> <p>10 further in Exhibit-3, there are responses</p> <p>11 relative to finding suspicious orders.</p> <p>12 We -- and your counsel will</p> <p>13 argue about whether the answers are</p> <p>14 responsive or complete or whatever. I'm</p> <p>15 referring you only to this for one</p> <p>16 purpose, which is simply, did you help</p> <p>17 gather any information about whether or</p> <p>18 not suspicious orders existed in Ohio or</p> <p>19 within Summit County?</p> <p>20 A. I'm sorry, which part of the</p> <p>21 document?</p> <p>22 Q. Page 6, Question Number 2,</p> <p>23 we can start with.</p> <p>24 Question 2 asks for the SOM</p> |
| <p style="text-align: right;">Page 111</p> <p>1 have the most knowledge about when those</p> <p>2 records were purged and why would be the</p> <p>3 director of IT?</p> <p>4 MR. JONES: Objection.</p> <p>5 Form.</p> <p>6 You can answer if you know.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. To your knowledge.</p> <p>9 A. I believe so.</p> <p>10 Q. Have you reviewed any</p> <p>11 suspicious order databases for your</p> <p>12 testimony here?</p> <p>13 A. I'm sorry, when you say</p> <p>14 "databases"?</p> <p>15 Q. Files, records.</p> <p>16 A. Yes.</p> <p>17 Q. Have you reviewed any --</p> <p>18 yes.</p> <p>19 If you went into the system,</p> <p>20 could you print out a list of all</p> <p>21 suspicious orders in a state, particular</p> <p>22 state?</p> <p>23 A. Me personally, no.</p> <p>24 Q. Is it feasible within your</p> | <p style="text-align: right;">Page 113</p> <p>1 systems themselves. And there's 141</p> <p>2 pages that were produced in response to</p> <p>3 that.</p> <p>4 The next question --</p> <p>5 MR. JONES: Just so we're</p> <p>6 clear, it's 441.</p> <p>7 MR. MIGLIORI: I'm sorry.</p> <p>8 That was my bad.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. 441 pages produced.</p> <p>11 And then on Number 3 it</p> <p>12 says, suspicious orders -- it asks for</p> <p>13 any suspicious orders beginning at a</p> <p>14 certain date.</p> <p>15 But the answer says that</p> <p>16 there were none in Summit County.</p> <p>17 Were you involved with</p> <p>18 gathering any of that data?</p> <p>19 A. Yes.</p> <p>20 Q. And did you look and search</p> <p>21 for Summit County suspicious orders going</p> <p>22 back to 2006?</p> <p>23 A. Yes.</p> <p>24 Q. And is this, in part, this</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 114</p> <p>1 answer that there were none that could be 2 found in Summit County, was that an 3 answer that was consistent with your 4 investigation into that? 5 A. Yes. 6 Q. Did you look for suspicious 7 orders in the state of Ohio beyond Summit 8 County? 9 A. No. 10 Q. Did you look for suspicious 11 orders throughout the country? 12 A. Responsive to this? 13 Q. To respond to this question. 14 A. No. 15 Q. Does that information exist 16 in the system that you were looking at? 17 A. Yes. 18 Q. And then there are several 19 different ways of asking different 20 questions about suspicious orders. 21 But is it fair to say, as 22 you sit here today, at least relative to 23 Summit County, you're aware of no 24 suspicious orders that have been reported</p> | <p style="text-align: right;">Page 116</p> <p>1 Q. In addition to that, there 2 is, federally, a requirement that you 3 report suspicious orders to the DEA, 4 correct? 5 A. Correct. 6 Q. And at least under the 7 statute that the suspicious order 8 monitoring program addresses, that those 9 suspicious orders are to be reported when 10 discovered, correct? 11 MR. JONES: Objection. 12 Form. Vague. 13 THE WITNESS: Sorry, can you 14 restate the question? 15 BY MR. MIGLIORI: 16 Q. Sure. 17 You're supposed to report 18 suspicious orders when you discover them, 19 correct? 20 A. Correct. 21 MR. JONES: Objection. 22 Form. 23 BY MR. MIGLIORI: 24 Q. And in addition to that,</p> |
| <p style="text-align: right;">Page 115</p> <p>1 to the DEA relative to any Schein clients 2 or customers from 2006 to the present, 3 correct? 4 MR. JONES: Objection. 5 Form. Objection. Vague. Overly 6 broad. 7 BY MR. MIGLIORI: 8 Q. Is that correct? 9 A. So we did report orders to 10 DEA during that time period, the monthly 11 reports that we discussed earlier. 12 Q. The pending orders? 13 A. Correct. 14 Q. So let's break that down. 15 You'll agree with me that 16 Henry Schein has always had the 17 obligation, relative to controlled 18 substances, to report the transactions to 19 DEA on a quarterly basis, correct? 20 A. Correct. 21 Q. And those transactions are 22 reported into what's called the ARCOS 23 database, correct? 24 A. Correct.</p> | <p style="text-align: right;">Page 117</p> <p>1 you're telling me that Schein reported 2 monthly what it called pending orders, 3 correct? 4 A. Correct. 5 Q. And those were orders that 6 triggered based on an excessive threshold 7 for that group of doctors, correct? 8 MR. JONES: Objection. 9 Form. Objection as to overly 10 broad as to time. 11 BY MR. MIGLIORI: 12 Q. Today. 13 A. We reported orders that 14 pending, yes; and that we reported orders 15 that were pending and cancelled. 16 Q. Pending and cancelled is your 17 definition of a suspicious order, 18 correct? 19 A. Potentially. 20 Q. Is there a pending and 21 cancelled that is not suspicious? 22 A. Could be. 23 Q. So -- and we've already said 24 that it's only after Masters, so,</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 118</p> <p>1 basically, beginning in 2018, that you 2 started reporting suspicious orders 3 before due diligence, correct? 4 MR. JONES: Objection. 5 Form. It's not it was part of his 6 testimony. 7 THE WITNESS: I'm sorry? 8 MR. MIGLIORI: We already 9 covered it. I don't have to do it 10 again. 11 BY MR. MIGLIORI: 12 Q. You found no reports of 13 suspicious orders in Summit County 14 beginning in 2006, correct? 15 A. The ones we did report 16 monthly to DEA, we reported. 17 Q. I want to be very specific, 18 because you reported different things, 19 and I want to make sure we're talking 20 about the same thing. 21 In helping to respond to the 22 answers in Exhibit Number 3, you looked 23 at the database, the files of Schein, to 24 find whether or not there were any -- as</p> | <p style="text-align: right;">Page 120</p> <p>1 BY MR. MIGLIORI: 2 Q. You were asked to go look 3 for information to be responsive to this 4 question, correct? 5 A. Correct. 6 Q. One of the things you did is 7 you went into your JDE system and you 8 looked where you would find suspicious 9 orders, correct? 10 A. Correct. 11 Q. And you did that for Summit 12 County, Ohio, correct? 13 A. Yes. 14 Q. And you were told to start 15 in January of 2006, correct? 16 A. Correct. 17 Q. And when you did that, you 18 produced zero suspicious orders that are 19 responsive to that question, correct? 20 MR. JONES: Objection. 21 Form. Vague as to "suspicious 22 orders." 23 BY MR. MIGLIORI: 24 Q. You're here to talk about</p> |
| <p style="text-align: right;">Page 119</p> <p>1 the request specifically says, any 2 suspicious orders in Summit County; 3 that's what you were asked to look for, 4 correct? 5 A. Correct. 6 Q. And you found none, correct? 7 A. Correct. 8 Q. That is, at least you went 9 back in time to 2006. 10 And from 2006 until today, 11 you found no suspicious orders reported 12 by Henry Schein, Incorporated for Summit 13 County, Ohio, correct? 14 MR. JONES: Object to the 15 form. Vague. Overly broad. 16 Also, the statement that you're 17 referencing in Exhibit-3, subject 18 to our limitations, clarifications 19 and objections. 20 MR. MIGLIORI: I'm just 21 asking only about your search, 22 okay? I'm not asking about any of 23 the other aspects of this 24 question.</p> | <p style="text-align: right;">Page 121</p> <p>1 suspicious orders, right? 2 MR. JONES: Objection. 3 Overly broad. 4 BY MR. MIGLIORI: 5 Q. You've been designated as a 6 person to talk about suspicious orders 7 today, correct? 8 A. Yes. 9 Q. You understand what a 10 suspicious order is, under Henry Schein's 11 definition anyhow, correct? 12 A. Yes. 13 Q. Under Henry Schein's 14 definition, did you find any suspicious 15 orders in Summit County from 2006 to 16 today? 17 A. From 2009 to today, no. 18 Q. The request here says from 19 2006. 20 A. Right. 21 Q. Did you not -- you couldn't 22 go back -- 23 A. We couldn't go back to 2006. 24 Q. So the limitation here,</p> |

Page 122

1 which -- I'm glad you told me, because
2 that's actually not clear here.
3 You were told to go back to
4 2006 to find suspicious orders in Summit
5 County and you went back to 2009 because
6 that's all you could find; is that fair?
7 A. Fair, yes.
8 Q. And in going back to 2009,
9 you found no suspicious orders in Summit
10 County, based on Schein's definition of
11 suspicious orders?
12 A. Correct.
13 Q. Is there another definition
14 of suspicious orders that you went to go
15 look back at the same data for?
16 A. No.
17 Q. If a suspicious order -- did
18 you go back and look for -- strike that.
19 Did you go back and look for
20 pended orders?
21 A. Yes.
22 Q. And did you find pended
23 orders in Summit County?
24 A. Yes.

Page 123

1 Q. And you'll see that there
2 are no pended orders referenced here.
3 I'll ask you to take my representation,
4 but you're welcome to look.
5 When asked about suspicious
6 orders, you didn't respond -- or you
7 didn't find or report pended orders in
8 your search for documents, did you?
9 A. I believe there were -- I
10 believe there were three for Summit
11 County, pended orders.
12 Q. And, again, you were asked
13 to go back to 2006; you could only go
14 back to 2009 because those documents had
15 been purged between 2006 and 2009,
16 correct?
17 A. The data had been purged.
18 Q. So in your search from 2009
19 to present, you believe that there were
20 three pended orders in Summit County?
21 A. Correct.
22 Q. Do you recall the dates of
23 those pended orders?
24 A. No.

Page 124

1 Q. Did you produce a list of
2 those three pended orders to counsel?
3 A. Yes.
4 Q. That list of three pended
5 orders, what were -- in the years that
6 they were pended, what would have been
7 the definition of a pended order to cause
8 them to be deemed pended? By what
9 definition were they pended?
10 A. I don't remember -- I don't
11 recall the time frame of the pend.
12 Q. Is it fair to say that since
13 2009, after the revamp of the suspicious
14 order monitoring program was implemented,
15 that pended orders had the same
16 definition?
17 MR. JONES: Objection.
18 Form.
19 BY MR. MIGLIORI:
20 Q. Isn't that a fair statement?
21 A. Can you clarify that?
22 Q. Sure.
23 Since 2009, the definition
24 of pended really hasn't changed at

Page 125

1 Schein, has it?
2 A. No.
3 Q. All right. So what would
4 have made these three Summit County
5 orders pended? What were the different
6 things that could have pended those three
7 orders?
8 A. So it could have been -- it
9 could have been for size, frequency or
10 pattern. It could have been a first-time
11 active ingredient. Or it could be that,
12 you know, there wasn't enough history
13 available, potentially, to score a
14 customer's particular order.
15 Q. And do you know the
16 customers for those, any of those three
17 pended orders?
18 A. No.
19 Q. But that's information you
20 provided to counsel?
21 A. Yes.
22 Q. And so by Schein's
23 definition, those pended orders had to
24 have some component within the system to

| | |
|--|--|
| <p style="text-align: right;">Page 126</p> <p>1 trigger a concern, correct?</p> <p>2 A. To trigger a pend.</p> <p>3 Q. And as of 2009, the</p> <p>4 triggering of a pend, unless it's a new</p> <p>5 client, is an algorithm, that is, it's a</p> <p>6 computer trigger, isn't it?</p> <p>7 A. It's a computer trigger,</p> <p>8 yes.</p> <p>9 Q. So it would have had to have</p> <p>10 been some change or deviation in size,</p> <p>11 frequency or pattern at some level to</p> <p>12 cause it to be questioned, correct?</p> <p>13 A. Unless it was a first-time</p> <p>14 purchase of a particular ingredient.</p> <p>15 Q. Right. But even that would</p> <p>16 be triggered electronically, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And that's part of the</p> <p>19 algorithm, at least as of 2009?</p> <p>20 A. Yes.</p> <p>21 Q. And then who gets that</p> <p>22 trigger? Who is told, we need to look at</p> <p>23 this, this is now pended?</p> <p>24 A. The system will write the</p> | <p style="text-align: right;">Page 128</p> <p>1 A. Yes.</p> <p>2 Q. -- these three pends in</p> <p>3 Summit County would have necessarily</p> <p>4 triggered a due diligence inquiry,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And that would have included</p> <p>8 a letter to the customer, correct,</p> <p>9 requesting information?</p> <p>10 A. A questionnaire, yes.</p> <p>11 Q. It would have, by 2009, also</p> <p>12 included a phone call to the customer,</p> <p>13 correct?</p> <p>14 A. Potentially, yes.</p> <p>15 Q. Which would be done by the</p> <p>16 verification team, typically?</p> <p>17 A. Yes.</p> <p>18 Q. All of this level of due</p> <p>19 diligence is done by your verification</p> <p>20 team, correct?</p> <p>21 A. The preliminary --</p> <p>22 Q. Yes.</p> <p>23 A. -- yes.</p> <p>24 Q. So in the preliminary due</p> |
| <p style="text-align: right;">Page 127</p> <p>1 pend into the system, and then it would</p> <p>2 be reviewed by my team in verifications.</p> <p>3 Q. All right. And so your team</p> <p>4 would get it, and then there would be a</p> <p>5 review process at your level, and if</p> <p>6 necessary, a review process at the</p> <p>7 regulatory level?</p> <p>8 A. That's right.</p> <p>9 Q. Do you know whether these</p> <p>10 three pends were reviewed and cleared?</p> <p>11 A. I don't -- I'm not sure.</p> <p>12 Q. You didn't investigate that?</p> <p>13 A. No.</p> <p>14 Q. Do you know whether</p> <p>15 regulatory got involved with any of these</p> <p>16 pends?</p> <p>17 A. I'm not sure.</p> <p>18 Q. Under your system, at least</p> <p>19 as of 2009, a pend would have necessarily</p> <p>20 required a due diligence follow-up,</p> <p>21 correct?</p> <p>22 A. Say that one more time. I'm</p> <p>23 sorry.</p> <p>24 Q. As of 2009 --</p> | <p style="text-align: right;">Page 129</p> <p>1 diligence, we have a questionnaire, we</p> <p>2 have, potentially, a phone call.</p> <p>3 What other things might have</p> <p>4 happened with respect to this -- these</p> <p>5 three pends in Summit County?</p> <p>6 A. Referring to the specific</p> <p>7 time frame of the pend?</p> <p>8 Q. Yeah. What are the</p> <p>9 possibilities of initial review in due</p> <p>10 diligence after 2009?</p> <p>11 MR. JONES: Objection.</p> <p>12 Overly broad as to time.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: So I guess it</p> <p>15 depends on when the pend took</p> <p>16 place; so, you know, depending on</p> <p>17 the year. The due diligence</p> <p>18 process has evolved.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. Okay. What was it in 2009?</p> <p>21 A. It would be a questionnaire</p> <p>22 or a phone call, as you stated.</p> <p>23 Q. So you send out a</p> <p>24 questionnaire and that questionnaire</p> |

Page 130

1 would come back within a certain amount
2 of time, correct?
3 A. Correct.
4 Q. It's all done by regular
5 mail, correct?
6 A. No. We would fax on
7 occasion.
8 Q. That questionnaire would
9 come back. And the verification team
10 could take that questionnaire, and we
11 have some we can show, if you need, but
12 take that questionnaire and a decision
13 could be made right there at verification
14 that it's okay to clear this for
15 shipment, correct?
16 A. Depending on the
17 circumstances, yes.
18 Q. And if a follow-up phone
19 call happened, who would make that call?
20 A. It could be somebody from my
21 team in verifications.
22 Q. All right. What other
23 potential aspects of due diligence, from
24 the verification team, could happen from

Page 131

1 2009 up to today?
2 A. Up to today?
3 Q. Yes.
4 A. We would get -- we would
5 still request the customer to fill out
6 the questionnaire.
7 And in today's world, you
8 know, we would perform Internet searches
9 of the customer, check all their licenses
10 at the state and federal level, review
11 product history.
12 Q. Okay. You would check
13 licenses in 2009, too, correct?
14 A. Yes.
15 Q. That was -- has been a part
16 of verification since you got there,
17 correct?
18 A. Correct.
19 Q. All right. And then you
20 would report that pend, on a monthly
21 basis, to DEA in 2009, correct?
22 A. Correct.
23 Q. And you did that through
24 2017, until you changed that process

Page 132

1 after Masters, correct?
2 MR. JONES: Objection.
3 THE WITNESS: No. That was
4 changed --
5 BY MR. MIGLIORI:
6 Q. Go ahead.
7 A. That was changed in 2015.
8 Q. 2015.
9 What caused that reporting
10 process to change relative to pended
11 orders?
12 A. It was based on guidance
13 that we had received from industry and
14 from DEA expectations.
15 Q. Okay. Did you, in 2009,
16 also report pended orders to the state of
17 Ohio?
18 A. I don't recall.
19 Q. Are you aware of the Ohio
20 requirements to report controlled
21 substances and suspicious orders?
22 MR. JONES: Objection. Goes
23 outside the scope.
24 MR. MIGLIORI: I don't know

Page 133

1 that it is. But I'll accept
2 whatever his answer is as to
3 whether or not he's aware of it.
4 THE WITNESS: I'm aware of
5 it now.
6 BY MR. MIGLIORI:
7 Q. When did you become aware of
8 the Ohio reporting requirements?
9 A. I don't -- I don't recall.
10 Q. Do you know if today Schein
11 reports to Ohio its pended orders?
12 A. Pended orders?
13 Q. Pended orders.
14 A. I'm not sure.
15 Q. Do you know if today Schein
16 reports its suspicious orders to the
17 state of Ohio?
18 A. Yes.
19 Q. And to which part, division,
20 of the Ohio government do you report
21 those?
22 A. I believe it's Board of
23 Pharmacy.
24 Q. And when, if you know, did

Page 134

1 Schein begin reporting suspicious orders
 2 to the Board of Pharmacy?
 3 A. I'm not sure.
 4 Q. Is the definition that you
 5 use for suspicious orders for Ohio the
 6 same as the definition that you, Henry
 7 Schein, use for suspicious orders for DEA
 8 purposes?
 9 A. Yes.
 10 Q. So the only reporting you
 11 would do to the Board of Pharmacy to Ohio
 12 for suspicious orders would be those
 13 orders that have pended, been
 14 investigated in due diligence, and
 15 cancelled, correct?
 16 A. Yes.
 17 MR. JONES: Objection to
 18 form.
 19 BY MR. MIGLIORI:
 20 Q. And the database for the
 21 Ohio reporting of those suspicious orders
 22 is located where?
 23 A. I'm sorry?
 24 Q. Is it the same database for

Page 135

1 reporting Ohio suspicious orders that you
 2 use for DEA suspicious orders?
 3 A. Internally?
 4 Q. Yes.
 5 A. Yes.
 6 Q. So if I wanted a list of all
 7 Ohio suspicious orders, you would look in
 8 the same place that you look for DEA
 9 suspicious orders, correct?
 10 A. Correct.
 11 Q. But as you sit here today,
 12 you only reported pended orders to the
 13 DEA; you did not, at Schein, report
 14 pended orders to Ohio's Board of
 15 Pharmacy, correct?
 16 A. That's right.
 17 Q. Do you know if the three
 18 pended orders that you found in Summit
 19 County, from 2009 to present, were also
 20 reported to the Ohio Board of Pharmacy?
 21 A. I don't know.
 22 Q. Do you know if the three
 23 pended orders were cancelled in Summit
 24 County?

Page 136

1 MR. JONES: Objection.
 2 Asked and answered.
 3 MR. MIGLIORI: I'm sorry if
 4 I did.
 5 BY MR. MIGLIORI:
 6 Q. Do you know if they were
 7 cancelled?
 8 A. I don't know.
 9 Q. And do you know if they were
 10 related to any criminal convictions of
 11 any doctors in Summit County?
 12 A. I'm not sure.
 13 Q. Are you familiar with Dr.
 14 Heim?
 15 A. No.
 16 Q. Are you aware of a
 17 conviction of a doctor in Summit County
 18 for controlled substance-related felonies
 19 in 2014?
 20 MR. JONES: Objection.
 21 Vague.
 22 THE WITNESS: I may have
 23 been, but I don't recall.
 24 BY MR. MIGLIORI:

Page 137

1 Q. And so do you know whether
 2 or not -- if -- strike that.
 3 If there were a conviction
 4 in Summit County of a physician relative
 5 to, among other things, controlled
 6 substances sold to him by Schein and due
 7 diligence had been performed on the
 8 ordering of that doctor, would that due
 9 diligence exist in the same place that
 10 you've already described within the JDE
 11 system?
 12 MR. JONES: Objection.
 13 Overly broad. Calls for
 14 speculation.
 15 THE WITNESS: Yes.
 16 BY MR. MIGLIORI:
 17 Q. All right. In your -- so
 18 just to wrap up Exhibit-3, in your effort
 19 to help counsel find documents responsive
 20 to these document requests, you found,
 21 from 2009 to present, no suspicious
 22 orders that reported to the DEA or to the
 23 Ohio Board of Pharmacy, correct?
 24 MR. JONES: Objection.

| | |
|---|---|
| <p style="text-align: right;">Page 138</p> <p>1 Compound. Objection. Vague.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you found three pended</p> <p>6 orders that you understand were reported</p> <p>7 to the DEA for three orders in Summit</p> <p>8 County, Ohio, correct?</p> <p>9 A. I'm sorry?</p> <p>10 Q. You found three pended</p> <p>11 orders for Summit County, Ohio --</p> <p>12 A. Yes.</p> <p>13 Q. -- in that time frame,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And do you know whether</p> <p>17 those three pended orders were, in fact,</p> <p>18 reported to DEA?</p> <p>19 A. I'm not sure, because of the</p> <p>20 time frame.</p> <p>21 Q. Okay. Is there a time frame</p> <p>22 between 2009 and present when a pended</p> <p>23 order would not have been reported to the</p> <p>24 DEA?</p> | <p style="text-align: right;">Page 140</p> <p>1 MR. MIGLIORI: Let me show</p> <p>2 you Exhibit-4.</p> <p>3 - - -</p> <p>4 (Whereupon, Exhibit</p> <p>5 Schein-Abreu-4, 21 C.F.R. 1301.74,</p> <p>6 was marked for identification.)</p> <p>7 - - -</p> <p>8 MR. JONES: Actually, I</p> <p>9 withdraw that objection.</p> <p>10 MR. MIGLIORI: I wasn't</p> <p>11 really going to give you any</p> <p>12 credit for it, anyway.</p> <p>13 MR. JONES: I'm surprised</p> <p>14 you're not over there issuing</p> <p>15 rulings.</p> <p>16 MR. MIGLIORI: I am, just in</p> <p>17 my head.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. Yours has the sticker on it,</p> <p>20 sir.</p> <p>21 I'm not going to ask you to</p> <p>22 interpret law. This is just simply right</p> <p>23 out of the Controlled Substances Act that</p> <p>24 we've been talking about, upon which the</p> |
| <p style="text-align: right;">Page 139</p> <p>1 A. After 2015, April 2015.</p> <p>2 Q. In April of 2015, you would</p> <p>3 have stopped sending pended orders to the</p> <p>4 DEA?</p> <p>5 A. That's correct.</p> <p>6 Q. And that guidance, the</p> <p>7 industry guidance, what do you recall</p> <p>8 about that, that dictated that you should</p> <p>9 no longer send pended orders to DEA?</p> <p>10 A. That DEA was particularly</p> <p>11 interested in orders that we deemed as</p> <p>12 suspicious and not orders that pended, as</p> <p>13 an order of interest.</p> <p>14 Q. So I understand the</p> <p>15 definition, at Schein, up until today,</p> <p>16 the mere fact that an order deviated from</p> <p>17 size, frequency and pattern was not</p> <p>18 enough -- is not enough to deem that</p> <p>19 order suspicious, correct?</p> <p>20 A. You said up until today?</p> <p>21 Q. Yes.</p> <p>22 A. Correct.</p> <p>23 MR. JONES: Objection. Form</p> <p>24 as to time.</p> | <p style="text-align: right;">Page 141</p> <p>1 suspicious orders -- and you certainly</p> <p>2 have seen this before, correct?</p> <p>3 A. Yes.</p> <p>4 Q. This is sort of the</p> <p>5 boilerplate that dictates all -- all</p> <p>6 things?</p> <p>7 MR. WICKS: What exhibit is</p> <p>8 this?</p> <p>9 MR. MIGLIORI: This is</p> <p>10 Exhibit-4.</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. So, again, this is effective</p> <p>13 as of 1971.</p> <p>14 Were you born yet?</p> <p>15 A. No.</p> <p>16 Q. The registrant -- you</p> <p>17 understand in the law that the registrant</p> <p>18 means the manufacturer, distributor,</p> <p>19 pharmacy that is in the business of</p> <p>20 making, distributing and selling</p> <p>21 controlled substances, correct?</p> <p>22 A. Yes.</p> <p>23 Q. All right. That is, they</p> <p>24 have to have a registration with the DEA</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 142</p> <p>1 in order to sell and distribute 2 controlled substances, correct? 3 A. Correct. 4 Q. And Henry Schein is a 5 registrant of the DEA, correct? 6 A. Yes. 7 Q. The registrant shall design 8 and operate a system to disclose to the 9 registrant suspicious orders of 10 controlled substances. 11 That's the mandate that 12 requires companies like yours to develop 13 a suspicious order monitoring program for 14 controlled substances, correct? 15 A. Correct. 16 Q. The registrant shall inform 17 the field division of the 18 administration -- that is, the DEA -- in 19 his area of suspicious orders when 20 discovered by the registrant. 21 Do you see that as part of 22 the requirement? 23 A. Yes. 24 Q. So when a suspicious order</p> | <p style="text-align: right;">Page 144</p> <p>1 Suspicious orders include orders of 2 unusual size, orders deviating 3 substantially from a normal pattern and 4 orders of unusual frequency. 5 Were you aware that that was 6 a definition within the statute? 7 A. Yes. 8 Q. So once an order deviated in 9 size or pattern or frequency, under the 10 Act it was suspicious. 11 Do you see that? 12 MR. JONES: Objection. 13 Form. The statute speaks for 14 itself. Also object to the extent 15 that it calls for a legal 16 conclusion. 17 BY MR. MIGLIORI: 18 Q. First of all, do you see 19 that in the statute? 20 A. Yes. 21 Q. But that's not the 22 definition that Schein works with, with 23 respect to suspicious orders. 24 In the Schein system, what I</p> |
| <p style="text-align: right;">Page 143</p> <p>1 is discovered by the company, it shall 2 report that suspicious order to the field 3 division of the DEA. 4 Do you understand that to be 5 the requirement of this act? 6 A. Yes. 7 MR. JONES: And just so 8 we're clear, I'm sure this is what 9 it says, but this is something 10 that you've put together; this is 11 not an actual copy of the statute? 12 Because, obviously, it doesn't 13 have the whole CFR provision. 14 MR. MIGLIORI: No. If you 15 really want it, I've got it. 16 MR. JONES: No. I -- 17 MR. MIGLIORI: But it's just 18 for illustration purposes. 19 MR. JONES: Got it. 20 MR. MIGLIORI: And if there 21 are typos, it's probably mine and 22 not the statute. 23 BY MR. MIGLIORI: 24 Q. The act then says,</p> | <p style="text-align: right;">Page 145</p> <p>1 just described there, what the statute 2 just described there, would be called a 3 pended order, not a suspicious order; is 4 that a fair understanding of what you're 5 saying? 6 MR. JONES: Objection. 7 Form. Compound. Object as to 8 time. Vague. 9 THE WITNESS: Say that 10 again. I'm sorry. 11 BY MR. MIGLIORI: 12 Q. Sure. 13 If I were to take that last 14 sentence, starting with "suspicious 15 orders," okay, we've read that together, 16 and you understand that to be part of the 17 Act, correct? 18 A. Correct. 19 Q. If I were to take that 20 sentence, in Schein's system, including 21 you looking back into Summit County to 22 find suspicious orders and pended orders, 23 in Schein's system, this wouldn't say 24 suspicious orders, this would say pended</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 146</p> <p>1 orders include orders of unusual size, 2 orders deviating substantially from a 3 normal pattern and orders of unusual 4 frequency, correct? 5 MR. JONES: Same objections. 6 THE WITNESS: Yes. It would 7 be considered an order of 8 interest. 9 BY MR. MIGLIORI: 10 Q. An order of interest is 11 another way to describe it. 12 A pended interest is another 13 way you've described it today, correct? 14 A. Correct. 15 Q. But an order that was only 16 unusual in size, deviated from a normal 17 pattern or of unusual frequency, in the 18 Schein system, by itself, is not 19 suspicious, correct? 20 A. In the Schein system, based 21 on, you know, discussions with industry 22 and input from DEA, yes. 23 Q. All right. So to the extent 24 that the Act requires reporting to DEA,</p> | <p style="text-align: right;">Page 148</p> <p>1 MR. JONES: Objection. 2 Form. 3 THE WITNESS: We reported 4 them as pended orders. 5 BY MR. MIGLIORI: 6 Q. And those weren't reported 7 when they were discovered, they were 8 reported, in an aggregate, on a monthly 9 basis, correct? 10 A. They were reported monthly, 11 yes. 12 Q. Were they reported 13 electronically, automatically? 14 A. The program created a report 15 electronically, but they were mailed to 16 DEA. 17 Q. So if after a month there 18 were no pended orders, did a report still 19 go? 20 A. Yes. 21 Q. And what did that report 22 say? 23 A. Because the report contained 24 orders from prior months as well.</p> |
| <p style="text-align: right;">Page 147</p> <p>1 at the time discovered, of suspicious 2 orders, Henry Schein has only reported, 3 from 2009 to today, pended orders, 4 correct? 5 MR. JONES: Objection. 6 Form. 7 BY MR. MIGLIORI: 8 Q. I'm sorry, to 2015. 9 A. Yes. 10 Q. All right. So if, from 2009 11 to 2015, the algorithm triggered a 12 deviation in size, pattern or frequency 13 of an order, Henry Schein did not report 14 that as a suspicious order to DEA until 15 after 2015, correct? 16 A. Can you say that one more 17 time? I'm sorry. 18 Q. If, from 2009 to 2015, the 19 system at Henry Schein triggered a 20 deviation for a customer in a controlled 21 substance order of size, pattern and 22 frequency, Henry Schein did not report 23 that as a suspicious order to DEA until 24 after 2015, correct?</p> | <p style="text-align: right;">Page 149</p> <p>1 Q. So as long as an order 2 remained in investigation, it repeatedly 3 got reported on a monthly basis? 4 A. Not whether it remained in 5 investigation, but whether it pended, we 6 would still, historically, go back for a 7 period of months. 8 Q. When does an order no longer 9 pend in the system, from 2009 to 2015? 10 A. It will pend -- it will stop 11 pending when it's either cancelled or 12 released. 13 Q. And by "released" you mean 14 shipped? 15 A. Correct. 16 Q. It's a little glossy, but I 17 want to make sure I know what you're 18 speaking for. 19 This is from the website, 20 and it's called, Henry Schein at a 21 Glance. 22 - - - 23 (Whereupon, Exhibit 24 Schein-Abreu-5, HenrySchein.com.</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 150</p> <p>1 Printout, was marked for 2 identification.) 3 - - - 4 MR. MIGLIORI: It's Exhibit 5 Number 5. 6 BY MR. MIGLIORI: 7 Q. When you speak for Henry 8 Schein, you are speaking for the entire 9 company on these topics, correct? 10 MR. JONES: Object to the 11 form. He's here as a corporate 12 representative of Henry Schein, 13 Inc. 14 BY MR. MIGLIORI: 15 Q. Well, that's what -- I'm not 16 trying to ask a bad question. I'm trying 17 to make sure I know why you're here and 18 who you're speaking for. 19 You have, within Henry 20 Schein, divisions that sell for animal 21 and veterinary health, correct? 22 A. Yes. 23 Q. Is that within Henry Schein, 24 Inc.?</p> | <p style="text-align: right;">Page 152</p> <p>1 also use controlled substances. 2 Is there a separate division 3 in those companies for that suspicious 4 order monitoring? 5 A. Yes. 6 Q. All right. And you have no 7 role with that whatsoever? 8 A. That's correct. 9 Q. All right. And the doctors 10 and customers Henry Schein, Inc. services 11 are primarily dentists and orthodontists, 12 right? 13 A. Correct. 14 Q. What other areas of 15 medicine? 16 A. Medical. 17 Q. Medical. 18 And more -- many of your 19 customers are, in fact, the doctors and 20 healthcare facilities themselves, 21 correct? 22 A. They're office-based 23 practitioners, yes. 24 Q. Do you do any distribution</p> |
| <p style="text-align: right;">Page 151</p> <p>1 A. No. 2 MR. JONES: Form. 3 BY MR. MIGLIORI: 4 Q. And are the systems in place 5 for suspicious orders the same systems 6 for the animal health systems? 7 MR. JONES: Object to the 8 form. Object that this goes 9 outside the scope. He's already 10 said that these other divisions 11 are not part of Henry Schein, Inc. 12 So he's not here as a 13 corporate representative to 14 testify as to them or as to their 15 corporate structure. 16 BY MR. MIGLIORI: 17 Q. I'm asking, within Henry 18 Schein, Inc., are you responsible for 19 your divisions, in terms of suspicious 20 order monitoring? 21 A. I'm not responsible for the 22 animal health. 23 Q. So, apparently, it seems, 24 that when taking care of animals, they</p> | <p style="text-align: right;">Page 153</p> <p>1 to retail pharmacies, independents or 2 national chains? 3 A. It is a separate division. 4 Q. And is that contained within 5 your suspicious order monitoring program? 6 A. They use the same systems. 7 Q. Is there a different group 8 of people that do the regulatory and 9 verification process of that? 10 A. Yes. 11 Q. And you have no role within 12 that whatsoever? 13 A. I don't have oversight. 14 Q. So to the extent you're 15 speaking here today, you're only speaking 16 about customers that are practitioners or 17 healthcare facilities themselves? 18 A. Yes. 19 Q. And if there's a change in 20 your system, does it also effectuate a 21 change in the same for dispensaries? 22 A. Sorry, when you say 23 "dispensaries" -- 24 Q. So you're here to talk about</p> |

Page 154

1 policies and standard operating
 2 procedures for your suspicious order
 3 monitoring program at Henry Schein, Inc.
 4 I'm just wondering whether
 5 the policies and procedures that you're
 6 here to talk about are the same as those
 7 that are used in the relationships with
 8 dispensaries?
 9 MR. JONES: Objection.
 10 Form. Vague as to "dispensaries."
 11 BY MR. MIGLIORI:
 12 Q. CVS. Pick a pharmacy.
 13 A. They use the same systems.
 14 Q. If you change your system
 15 for your customer base, is it usually the
 16 case that that changes for the suspicious
 17 ordering system for the pharmacies?
 18 A. The system itself, yes. But
 19 not necessarily practices and policy.
 20 Q. Do, ever, the two regulatory
 21 groups regularly interact on DEA
 22 requirements and expectations and
 23 guidances?
 24 MR. JONES: Objection.

Page 155

1 BY MR. MIGLIORI:
 2 Q. Is there any interface
 3 between the dispensary retail side and
 4 the direct customer side?
 5 MR. JONES: Object to the
 6 form. Objection. It goes outside
 7 the scope.
 8 BY MR. MIGLIORI:
 9 Q. Go ahead.
 10 A. In terms of sharing best
 11 practices.
 12 Q. Okay. And are those best
 13 practices memorialized somewhere?
 14 A. In an SOP.
 15 Q. Okay. So if we go through
 16 the SOPs that we've been provided, the
 17 441 pages, or whatever they are, those
 18 would apply both to direct customers and
 19 to retail; and to the extent they're not
 20 consistent, it would be in the SOP?
 21 MR. JONES: And, again,
 22 you're talking about those
 23 customers with whom Henry Schein,
 24 Inc. does business?

Page 156

1 MR. MIGLIORI: Right.
 2 BY MR. MIGLIORI:
 3 Q. I just want to know, if you
 4 change a system for a pharmacy, will that
 5 show up in the same documents I'm looking
 6 at if you change the system for direct
 7 customers at Henry Schein, Inc.?
 8 A. So SOPs are maintained
 9 separately.
 10 Q. Okay. Do you have regular
 11 meetings to talk about best practices?
 12 A. No.
 13 Q. And who is the person with
 14 the most knowledge, to your knowledge, of
 15 those relationships, that is, the
 16 relationships between Henry Schein and
 17 the pharmacies?
 18 A. That would be Sergio Tejada.
 19 Q. So regulatory covers both,
 20 verification doesn't?
 21 A. Correct.
 22 Q. And that's because direct
 23 customers, you have to verify their
 24 medical practices, licenses and the like,

Page 157

1 correct?
 2 A. Yes.
 3 Q. So if I wanted to know about
 4 the overall Henry Schein standard
 5 operating procedures for suspicious order
 6 monitoring throughout the company, Sergio
 7 and the regulatory team is involved with
 8 all of those, correct?
 9 MR. JONES: Object to the
 10 form. Vague. Overly broad.
 11 THE WITNESS: I don't know
 12 if I would say necessarily "all."
 13 BY MR. MIGLIORI:
 14 Q. Is there another regulatory
 15 division besides the one that Sergio is
 16 in?
 17 A. I don't believe so.
 18 Q. Okay. As it says here in
 19 Exhibit-5, Schein is a Fortune 500
 20 company, NASDAQ.
 21 The company you work for is
 22 one of the largest suppliers of medical
 23 devices, pharmaceuticals and controlled
 24 substances to the dental and orthodontic

Page 158

1 physicians in the United States, aren't
2 they?

3 MR. JONES: Objection.
4 Form. Goes outside the scope.
5 BY MR. MIGLIORI:
6 Q. Is that true?
7 MR. JONES: You can answer
8 if you know.
9 THE WITNESS: I'm not sure.
10 BY MR. MIGLIORI:
11 Q. Okay. Are you familiar with
12 the volume of shipments within your
13 company that you are required to manage
14 and monitor for suspicious orders?
15 A. Yes.
16 Q. On Page 2 of this document,
17 it refers to serving more than 1 million
18 customers.
19 And just so you know, this
20 was, I think, a 1917 -- I think this has
21 been on the website since 1917, or
22 1917 -- I mean 2017.
23 Eighty-six years in
24 business. You have more than 22,000

Page 159

1 Schein employees.
2 Does that sound right?
3 A. Yes.
4 Q. 4,100 field sales
5 consultants.
6 Do you interact with the
7 sales force at all for any of the
8 suspicious order monitoring processes?
9 A. Yes.
10 Q. How?
11 A. Just through collaboration
12 with the customer.
13 Q. Are they part of the due
14 diligence process?
15 A. No.
16 Q. Have they ever been part of
17 the due diligence process?
18 A. No.
19 MR. JONES: Let me just be
20 clear. I mean, you're asking him
21 questions about a document that
22 you haven't established a
23 foundation for.
24 But it's misleading, insofar

Page 160

1 as you're trying to tie together
2 4,100 field sales consultants and
3 controlled substances. I mean,
4 Henry Schein is a big company that
5 sells lots of products that are
6 not controlled substances. So I
7 object to you misleading what this
8 document says with respect to the
9 topics in this deposition.
10 MR. MIGLIORI: I'm sure when
11 you go back and read this, you'll
12 see that three questions ago I
13 mentioned devices, drugs and
14 controlled substances.
15 MR. JONES: You moved away
16 from that, Don.
17 MR. MIGLIORI: I can't say
18 it in every question. But I'll
19 accept your running objection to
20 that clarification.
21 MR. JONES: Thank you.
22 MR. MIGLIORI: But I'll have
23 to swear you in next time you do
24 that, okay.

Page 161

1 BY MR. MIGLIORI:
2 Q. It says here that you have
3 63 distribution centers.
4 Are those -- are all the
5 distribution centers within Henry Schein
6 centers that distribute controlled
7 substances?
8 A. I'm not sure.
9 Q. Do you know -- but the
10 suspicious order monitoring programs that
11 we're talking about relate to all the
12 distribution centers that maintain and
13 supply controlled substances, correct,
14 nationwide?
15 A. Nationwide, yes.
16 Q. All right. You talked a
17 couple of times about your team. I just
18 want to make sure I understand who your
19 team is.
20 This is a PowerPoint that I
21 think you helped to prepare with BriAnne
22 Elia. Is that right?
23 A. Yeah. Elia.
24 - - -

| | |
|--|---|
| <p style="text-align: right;">Page 162</p> <p>1 (Whereupon, Exhibit 2 Schein-Abreu-6, Verification Team 3 Overview; July 2015, was marked 4 for identification.) 5 - - - 6 BY MR. MIGLIORI: 7 Q. Elia. 8 Who is she? 9 A. She works on my team. 10 Q. Do you recall -- it's a 11 July -- it's Exhibit Number 6. It's a 12 July 2015 PowerPoint, verifications team 13 overview. 14 Do you remember preparing 15 this? 16 A. 2015? I'm sure I did. I 17 don't recall specifically. 18 Q. That's you on the front 19 cover, anyway? 20 A. Yes. 21 Q. And it really goes into the 22 verification component of suspicious 23 orders, right? The second page is the 24 licensing requirements?</p> | <p style="text-align: right;">Page 164</p> <p>1 Q. Do you understand, as you 2 sit here today, that you have additional 3 reporting requirements to Ohio? 4 A. For? 5 Q. For controlled substances, 6 for the sale. 7 A. To report transactions? 8 Q. Yes. 9 A. Yes. 10 Q. Do you know how long that's 11 been in existence in Ohio? 12 A. No, I'm not sure. 13 Q. And, to your knowledge, has 14 Schein complied with that requirement? 15 A. Yes. 16 Q. Does Ohio have a suspicious 17 order monitoring -- a suspicious order 18 reporting requirement? 19 A. I believe so. 20 Q. And for all times that 21 you've -- that you -- going back to 1996, 22 or whenever the requirements started, has 23 Schein complied with the Ohio suspicious 24 order requirements?</p> |
| <p style="text-align: right;">Page 163</p> <p>1 A. Yes. 2 Q. And so part of verification 3 is that you have to make sure that your 4 doctors and customers, where applicable, 5 maintain state licensure, correct? 6 A. Correct. 7 Q. Do you know if Ohio -- it 8 says here, Example, Ohio. 9 Are you familiar with the 10 additional state requirements of state 11 licensure in Ohio? 12 A. Yes. 13 Q. What are they? 14 A. That a customer maintain a 15 terminal distributor of dangerous drugs 16 license, Category III, for controlled 17 substances. 18 Q. And does that change -- is 19 that any -- strike that. 20 Are your reporting 21 requirements different in Ohio because of 22 that requirement? 23 A. Sorry, I'm not sure I 24 understand the question.</p> | <p style="text-align: right;">Page 165</p> <p>1 MR. JONES: Object to the 2 form. Scope. Calls for a legal 3 conclusion. 4 THE WITNESS: Yeah, I'm not 5 sure, going back. 6 BY MR. MIGLIORI: 7 Q. Have you looked for those 8 reporting -- that reporting data in Ohio? 9 A. No. 10 Q. All right. There's a 11 controlled substance state licensure and 12 then a federal DEA licensure. 13 So that's part of your 14 verification team? 15 A. Correct. 16 Q. You also state here that, on 17 the next page, in your suspicious order 18 monitoring due diligence process, Henry 19 Schein has a Know Your Customer DEA 20 overview. 21 What is that? 22 A. It's just something that we 23 provide to customers to explain our 24 process.</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 166</p> <p>1 Q. And is it a document?</p> <p>2 A. Yes.</p> <p>3 Q. Is it, like, a pamphlet? Is</p> <p>4 it a booklet? What does it look like?</p> <p>5 A. It's just a two-page, or a</p> <p>6 one-page, front-and-back, document.</p> <p>7 Q. Did you look at that in</p> <p>8 preparation for today?</p> <p>9 A. No.</p> <p>10 Q. But it exists? If I were to</p> <p>11 say, can you send me over the Henry</p> <p>12 Schein Know Your Customer DEA overview as</p> <p>13 of 2015, that exists in your files,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. The suspicious order,</p> <p>17 due diligence suspicious order</p> <p>18 monitoring, these are different things</p> <p>19 that you look for, for verification,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. One of them says, License</p> <p>23 background review, disciplinary actions.</p> <p>24 You do, at least as of 2015,</p> | <p style="text-align: right;">Page 168</p> <p>1 the due diligence for each and every</p> <p>2 customer, correct?</p> <p>3 A. Could be a paper version as</p> <p>4 well.</p> <p>5 Q. Okay. It wasn't always the</p> <p>6 case that every customer had a due</p> <p>7 diligence file, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. We'll get into that.</p> <p>10 And then onboarding is</p> <p>11 bringing on a new client, right?</p> <p>12 A. Right.</p> <p>13 Q. On Page 4 of Exhibit-6,</p> <p>14 there are some additional due diligence</p> <p>15 requirements for bringing on a new client</p> <p>16 as of 2015.</p> <p>17 It says, Speaking with the</p> <p>18 sales team and attending onboarding</p> <p>19 conference calls.</p> <p>20 So the sales team is part of</p> <p>21 the onboarding process, right? They</p> <p>22 bring in the new client?</p> <p>23 A. Yes.</p> <p>24 Q. And then you interact with</p> |
| <p style="text-align: right;">Page 167</p> <p>1 look back to see whether or not there</p> <p>2 have been any disciplinary, whether it be</p> <p>3 licensure or, I assume, criminal</p> <p>4 disciplinary actions for your customers,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And that information would</p> <p>8 be in the due diligence file that we've</p> <p>9 already talked about, right?</p> <p>10 A. Right.</p> <p>11 Q. You have an online</p> <p>12 controlled substances form.</p> <p>13 So you create an</p> <p>14 Internet-based interface with the</p> <p>15 clients, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And there's a requirement</p> <p>18 that the customer, at least as of 2015,</p> <p>19 have a complete form, all fields are</p> <p>20 filled in and an E-signature, right?</p> <p>21 A. Right.</p> <p>22 Q. And so for every customer,</p> <p>23 in some accounting, for example, today,</p> <p>24 there would be an online file relative to</p> | <p style="text-align: right;">Page 169</p> <p>1 the sales team in whether or not that</p> <p>2 client, in fact, can be onboarded after</p> <p>3 some due diligence, correct?</p> <p>4 A. Correct.</p> <p>5 Q. In 2015, the elements of</p> <p>6 that due diligence for onboarding</p> <p>7 included the questionnaire, correct?</p> <p>8 A. And licensing.</p> <p>9 Q. And licensing.</p> <p>10 So they would have to fill</p> <p>11 out a one-page questionnaire?</p> <p>12 A. It became two pages.</p> <p>13 Q. And then that questionnaire</p> <p>14 goes in the due diligence file</p> <p>15 immediately?</p> <p>16 A. Yes.</p> <p>17 Q. And then you would have to</p> <p>18 go through a verification of the various</p> <p>19 licenses for that state and federally,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then, finally, on this,</p> <p>23 this is a list, at least in 2015, of the</p> <p>24 people within verification. It lists you</p> |

Page 170

1 as the verifications manager.
 2 What does Maggie Wilding do?
 3 A. She is the supervisor of our
 4 team in Reno for verifications.
 5 Q. Does she report to you?
 6 A. Yes.
 7 Q. So Reno reports, generally,
 8 to the Melville facility?
 9 A. To me, yes.
 10 Q. You oversee all the
 11 verifications?
 12 A. Yes.
 13 Q. Christine Stratton, she is a
 14 suspicious order monitoring team lead.
 15 What department is she in?
 16 A. She is still in
 17 verifications.
 18 Q. And what does she do? What
 19 does a team lead do?
 20 A. So, currently, she actually
 21 is a supervisor. But it would be her
 22 role to assist in the SOM and Know Your
 23 Customer processes.
 24 Q. Is she a supervisor in New


Page 171

1 York?
 2 A. Yes.
 3 Q. But she still reports to
 4 you?
 5 A. Yes.
 6 Q. And Maggie, is she still the
 7 supervisor in Reno?
 8 A. Yes.
 9 Q. How about Leah Mannino?
 10 A. She is no longer with the
 11 company.
 12 Q. But she would have done the
 13 same things that Christine was doing with
 14 respect to team lead?
 15 A. Yes.
 16 Q. And she was in New York?
 17 A. Yes.
 18 Q. Has somebody filled in for
 19 her now, that's there now?
 20 A. Yes.
 21 Q. Who is that?
 22 A. BriAnne Elia.
 23 Q. Judy Labarbera, a licensing
 24 team lead.

Page 172

1 First of all, is Judy still
 2 there?
 3 A. No.
 4 Q. Does somebody else have that
 5 role?
 6 A. Yes.
 7 Q. Who is that?
 8 A. George Rodriguez.
 9 Q. And what does a licensing
 10 team lead do?
 11 A. They work with the team on
 12 verification for licensing credentials.
 13 Q. And BriAnne is now a team
 14 lead, an SOM team lead, but here it says,
 15 Verifications, manage accounts.
 16 What is that job title?
 17 A. That was part of the
 18 onboarding that we spoke of earlier. So
 19 she would engage with the customer to set
 20 expectations for coming over.
 21 Q. Who is doing that now?
 22 A. Brian Fishman.
 23 Q. None of those folks have any
 24 responsibilities with respect to the

Page 173

1 database that you also manage, correct?
 2 A. That's correct.
 3 Q. I'll show you Exhibit Number
 4 7.
 5 - - -
 6 (Whereupon, Exhibit
 7 Schein-Abreu-7,
 8 HSI-MDL-00000086-103, was marked
 9 for identification.)
 10 - - -
 11 BY MR. MIGLIORI:

 23 Q. And you've seen forms like
 24 this? Every change to the standard

Page 174

1 operating procedures of Schein relative
2 to suspicious order monitoring is
3 reflected somehow -- to the extent that
4 it's a change that goes into the books,
5 is reflected in one of these forms,
6 correct?

7 A. Correct.

8 Q. We'll get into different
9 things here, but this is an SOM from this
10 year. It talks about some of the things
11 that we've already talked about today.

12 But for this purpose right
13 now, I just want to bring you to the page
14 that ends in 98. There's a list of
15 states that have reporting requirements.
16 And it appears that this has been added
17 to the SOP for Henry Schein for Ohio.

18 Have you reviewed this in
19 preparation for today?

20 A. Yes.

21 Q. So you'll see that the Ohio
22 requirements are separate and apart from
23 the DEA requirements.

24 You agree with that, right?

Page 176



Page 175

1 A. Yes.

2 Q. And here is the citation,
3 and it's a requirement for wholesalers.

4 You understand that Schein
5 is considered a wholesaler in this
6 context, correct?

7 A. Correct.

8 Q. And that the reporting
9 requirement is to the Ohio Board of
10 Pharmacy in Columbus, Ohio.

11 Do you see that?

12 A. Yes.



Page 177

1 So if the board asks for
2 something, you have to respond.

3 Do you recall ever having to
4 do that at Schein, that is, provide a
5 report to the board specifically upon
6 their request?

7 A. Not to my recollection, no.



Page 178

[REDACTED]

20 MR. JONES: Object to the
21 form. Misstates the document.
22 THE WITNESS: Are we talking
23 with respect to Summit County or
24 Ohio as a whole?

Page 179

1 BY MR. MIGLIORI:
2 Q. I'm asking for Ohio.
3 But if you only did it for
4 Summit, you can tell me that.
5 A. Yes, I did, I searched for
6 Summit County.
7 Q. And did you find any in
8 Summit County?
9 A. No.
10 Q. And folks that would fall
11 into the category of not being authorized
12 to use drugs would include, for example,
13 an orthodontist should not be ordering
14 things like anti-anxiety medication,
15 correct? Is that within the system?
16 MR. JONES: Objection to
17 form. Lack of foundation. Calls
18 for a legal conclusion.
19 THE WITNESS: Arbitrarily or
20 regarding that specific example
21 you gave?
22 BY MR. MIGLIORI:
23 Q. Isn't that -- I'm giving you
24 an example as something in the standard

Page 180

1 operating procedures of your company as
2 being an unauthorized purchase.
3 A. We have --
4 MR. JONES: Same objections.
5 THE WITNESS: We have
6 restrictions in place.
7 BY MR. MIGLIORI:
8 Q. Yes.
9 And one of the restrictions
10 is, dentists don't normally prescribe
11 anti-anxiety medications, correct?
12 MR. JONES: Objection to
13 form.
14 THE WITNESS: Specifically
15 to that example?
16 BY MR. MIGLIORI:
17 Q. Yes.
18 A. Potentially.
19 Q. In fact, there is a standard
20 operating procedure that says that if a
21 dentist is ordering anti-anxiety and
22 controlled substances, like a morphine
23 equivalence, that that is a red flag,
24 correct?

Page 181

1 A. I'm not sure about that.
2 MR. JONES: Objection.
3 BY MR. MIGLIORI:
4 Q. One of the practices, or one
5 of the policies and procedures that
6 Schein adopted more recently is that
7 doctors can't self-medicate or order
8 controlled substances for their own
9 personal use. Isn't that one of the
10 Schein policies?
11 A. That's one of our policies.
12 Q. Did you look, within the
13 Ohio reporting databases, for any reports
14 of doctors that you found, upon due
15 diligence, were using opiates or morphine
16 equivalents for self-medicating purposes?
17 A. With respect to Summit
18 County?
19 Q. I'm asking for Ohio, but you
20 can limit it to what you looked for.
21 A. With respect to Summit
22 County, no.
23 Q. So with respect to Summit
24 County, you did look for it and you did

| | |
|---|---|
| <p style="text-align: right;">Page 182</p> <p>1 not find any?</p> <p>2 A. Correct.</p> <p>3 Q. If, in fact, though, you had</p> <p>4 a doctor in Summit County that was</p> <p>5 self-medicating and you became aware of</p> <p>6 that, that fact would be, first, in the</p> <p>7 due diligence file, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And by operation of law, you</p> <p>10 would have reported that to Ohio and to</p> <p>11 the DEA?</p> <p>12 A. Yes.</p> <p>13 Q. And that would have been</p> <p>14 reported as a suspicious order, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And you've looked for both</p> <p>17 the DEA and Ohio, and you found none for</p> <p>18 Summit County?</p> <p>19 A. That's correct.</p> <p>20 Q. From 2009 to present?</p> <p>21 MR. JONES: Objection.</p> <p>22 VIDEO TECHNICIAN: The time</p> <p>23 is now 11:49 a.m. And we are</p> <p>24 going off the record.</p> | <p style="text-align: right;">Page 184</p> <p>1 on the bottom? That means we received it</p> <p>2 from your company.</p> <p>3 So you'll agree with me that</p> <p>4 Henry Schein, Inc., in fact, received and</p> <p>5 maintained in its files a copy of the</p> <p>6 September 27, 2006 letter -- I'll show</p> <p>7 the name -- from Joseph Rannazzisi,</p> <p>8 deputy assistant administrator, Office of</p> <p>9 Diversion Control?</p> <p>10 A. Yes.</p> <p>11 Q. As the letter states, it's</p> <p>12 being sent to every commercial entity</p> <p>13 registered with the Drug Enforcement</p> <p>14 Agency to distribute controlled</p> <p>15 substances.</p> <p>16 That would have included</p> <p>17 Schein in 2006, correct?</p> <p>18 A. Yes.</p> <p>19 Q. The purpose of this letter</p> <p>20 is to reiterate the responsibilities of</p> <p>21 controlled substance distributors in view</p> <p>22 of the prescription drug abuse problem</p> <p>23 our nation currently faces.</p> <p>24 You will agree with me that,</p> |
| <p style="text-align: right;">Page 183</p> <p>1 - - -</p> <p>2 (Whereupon, a brief recess</p> <p>3 was taken.)</p> <p>4 - - -</p> <p>5 VIDEO TECHNICIAN: The time</p> <p>6 is now 11:51 a.m. We are back on</p> <p>7 the record.</p> <p>8 - - -</p> <p>9 (Whereupon, Exhibit</p> <p>10 Schein-Abreu-8,</p> <p>11 HSI-MDL-00231455-458, was marked</p> <p>12 for identification.)</p> <p>13 - - -</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Let me show you -- we talked</p> <p>16 a little bit about the Rannazzisi</p> <p>17 letters. Let me show you Exhibit Number</p> <p>18 8.</p> <p>19 This is the Dear Registrant</p> <p>20 letter of September 27th, 2006.</p> <p>21 Have you reviewed this?</p> <p>22 A. Yes.</p> <p>23 Q. And you see that this</p> <p>24 document has actually got an HSI number</p> | <p style="text-align: right;">Page 185</p> <p>1 as of 2006, it was understood within the</p> <p>2 industry that the country was in a</p> <p>3 drug -- a prescription drug abuse</p> <p>4 national crisis --</p> <p>5 MR. JONES: Object to the</p> <p>6 form.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. -- wouldn't you?</p> <p>9 A. Yes.</p> <p>10 Q. And that this letter was</p> <p>11 not, on its face, designed to give new</p> <p>12 guidance, but it was to, as he puts it,</p> <p>13 reiterate the responsibilities of</p> <p>14 controlled substance distributors in view</p> <p>15 of that crisis.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. All right. Rannazzisi says,</p> <p>19 As each of you undoubtedly -- is</p> <p>20 undoubtedly aware, the abuse of</p> <p>21 controlled prescription drugs is a</p> <p>22 serious and growing health problem in the</p> <p>23 country. DEA has an obligation to combat</p> <p>24 this problem, as one of the agency's core</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 186</p> <p>1 functions is to prevent the diversion of 2 controlled substances into illicit 3 channels. And Congress assigned DEA to 4 carry out this function through the 5 enforcement of the Controlled Substances 6 Act and the DEA regulations to implement 7 that.</p> <p>8 So on its face, Schein, you 9 would agree, was aware that in 2006, at 10 least, the purpose of the Controlled 11 Substances Act was to prevent diversion 12 of prescription drugs for illicit use and 13 abuse, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And, in fact, that 16 relationship between the Controlled 17 Substances Act and the abuse of 18 prescription medications actually went 19 back to 1971, as we saw, correct?</p> <p>20 A. When it was initially 21 written?</p> <p>22 Q. Correct.</p> <p>23 A. Yes.</p> <p>24 Q. It says, in the middle of</p> | <p style="text-align: right;">Page 188</p> <p>1 Master Cohen's ruling in 2 September.</p> <p>3 MR. MIGLIORI: What part of 4 the ruling? Because if I can 5 avoid it, I will.</p> <p>6 MR. JONES: Asking him about 7 his -- about past, present 8 interpretation, agreement or 9 disagreement with statements made 10 in the Rannazzisi letters.</p> <p>11 I mean, we'll stipulate that 12 that's what the letter says. But 13 as far as you're going to ask him 14 questions about what Henry Schein 15 thinks or believes or disagrees 16 with, then we're going to object 17 to the scope.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. Well, I'm only going to ask 20 you questions to the extent that this 21 informs what the purpose of your 22 suspicious order monitoring program is, 23 okay? I'm not asking you to confirm that 24 that's what Rannazzisi thought or what</p> |
| <p style="text-align: right;">Page 187</p> <p>1 the next paragraph, Distributors are, of 2 course, one of the key components of the 3 distribution chain. If the closed system 4 is to function properly, as Congress 5 envisioned, distributors must be vigilant 6 in deciding whether a prospective 7 customer can be trusted to deliver 8 controlled substances only for lawful 9 purposes.</p> <p>10 You'll agree with me that 11 Henry Schein understood that the 12 distributors play an important role in 13 the prevention of diversion?</p> <p>14 MR. JONES: Object to the 15 form. It goes outside the scope.</p> <p>16 MR. MIGLIORI: Well, that's 17 directly referencing a Rannazzisi 18 letter that's specifically 19 referenced in the notice. So if 20 you don't -- if you don't have an 21 opinion on that, you can tell me 22 that.</p> <p>23 MR. JONES: It's also 24 outside the scope, per Special</p> | <p style="text-align: right;">Page 189</p> <p>1 the company thought back in 2006 or 2 before, okay?</p> <p>3 It says that, The Controlled 4 Substances Act uses a concept of 5 registration as a primary means by which 6 manufacturers, distributors, and 7 practitioners are given legal authority 8 to handle controlled substances.</p> <p>9 So you understand that the 10 registration of all of those entities is 11 what allows the DEA to require reporting 12 and detection of suspicious orders, 13 right?</p> <p>14 MR. JONES: Object to the 15 form. Outside the scope.</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. Do you understand that? If 18 you're a registrant, that you have to 19 comply with the Controlled Substances 20 Act?</p> <p>21 A. Yes.</p> <p>22 MR. JONES: Same objection.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. All right. In the middle of</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 190</p> <p>1 the second page, it says, The DEA 2 regulations require all distributors to 3 report suspicious orders of controlled 4 substances. Specifically, the 5 regulations state the registrant shall 6 design and operate a system to disclose 7 to the registrant suspicious orders of 8 controlled substances. The registrant 9 shall inform the field division of the 10 Office of the Administration in this area 11 of suspicious orders when discovered by 12 the registrant. Suspicious orders 13 include orders of unusual size, orders 14 deviating substantially from normal 15 pattern, and orders of unusual frequency. 16 So we read this earlier. 17 But you'll agree with me that Henry 18 Schein was in receipt of this specific 19 provision and requirement of the CSA of 20 Henry Schein relative to controlled 21 substances and its customers, correct? 22 MR. JONES: We'll stipulate 23 that Henry Schein received this 24 Rannazzisi letter on or about when</p> | <p style="text-align: right;">Page 192</p> <p>1 Now, do you understand that 2 to mean that a suspicious order requires 3 due diligence in order for it to be 4 determined to be suspicious? 5 MR. JONES: Object to the 6 form. Object. Goes specifically 7 and expressly outside the scope 8 that is allowed by the special 9 master's order. 10 You can ask him in his 11 individual capacity. But this is 12 going outside the scope for which 13 this witness is here and outside 14 what the court has allowed. 15 MR. MIGLIORI: That's fine. 16 I've got your objection. 17 And if that's what's ruled, 18 that this is his individual 19 capacity, I'm okay with that. 20 BY MR. MIGLIORI: 21 Q. But I'm asking you, as your 22 capacity here, in regards to the stated 23 area of inquiry about the Rannazzisi 24 letter, would you agree with me that, at</p> |
| <p style="text-align: right;">Page 191</p> <p>1 it was dated. 2 Otherwise, I object -- 3 MR. MIGLIORI: You can 4 answer. 5 MR. JONES: Otherwise, I 6 object to the question as outside 7 the scope. The document speaks 8 for itself. 9 MR. MIGLIORI: Okay. And 10 I'll note that. 11 BY MR. MIGLIORI: 12 Q. You see that, in fact, 13 Schein received this excerpt in 2016 in 14 this Rannazzisi letter, correct? 15 A. Correct. 16 Q. You'll also see it says, in 17 the next -- two following paragraphs, it 18 says, Thus, in addition to reporting all 19 suspicious orders, a distributor has a 20 statutory responsibility to exercise due 21 diligence to avoid filling suspicious 22 orders that might be diverted into 23 other-than-legitimate medical, scientific 24 and industrial channels.</p> | <p style="text-align: right;">Page 193</p> <p>1 least as of 2006, Henry Schein was put on 2 notice that the reporting requirement of 3 a suspicious order was separate and 4 distinct from the obligation to perform 5 due diligence? 6 MR. JONES: Objection. 7 Form. Calls for legal conclusion. 8 Outside the scope. Runs afoul of 9 the court's order. 10 BY MR. MIGLIORI: 11 Q. Sir, you can answer. And 12 the court will determine whether you 13 answer it just for you or for the 14 company. 15 A. Yes. 16 Q. Okay. So at least according 17 to this letter that Schein received in 18 2006, once something deviated from an 19 unusual size, pattern or frequency, that 20 was, by the DEA's perspective, a 21 suspicious order that needed to be 22 reported, and that was separate and 23 distinct from the obligation to then do 24 due diligence to see whether or not that</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 194</p> <p>1 order could be shipped?</p> <p>2 Would you agree with me that</p> <p>3 that's at least what Schein has been put</p> <p>4 on notice of in 2006?</p> <p>5 MR. JONES: Object to the</p> <p>6 form. Object. Compound. Calls</p> <p>7 for a legal conclusion. Outside</p> <p>8 the scope. Calls for speculation.</p> <p>9 The document speaks for itself.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. Go ahead.</p> <p>12 A. I'm sorry, can you restate</p> <p>13 the question?</p> <p>14 Q. Sure.</p> <p>15 MR. MIGLIORI: And I'll</p> <p>16 accept the objection that comes</p> <p>17 back as well.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. You'll agree with me that at</p> <p>20 least with respect to this letter that</p> <p>21 Schein received in 2006, it made it clear</p> <p>22 that a suspicious order was a deviation</p> <p>23 of size, frequency and pattern, and that</p> <p>24 alone had to be reported; separate and</p> | <p style="text-align: right;">Page 196</p> <p>1 form. Lack of foundation. Vague.</p> <p>2 Outside the scope. Calls for a</p> <p>3 legal conclusion.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. Go ahead.</p> <p>6 A. We reported orders that were</p> <p>7 deemed suspicious.</p> <p>8 Q. Right. I understand that.</p> <p>9 I'm trying to figure out by which</p> <p>10 definition.</p> <p>11 The definition in this</p> <p>12 Exhibit-7 that I'm reading from right</p> <p>13 now, where -- I'm sorry, Exhibit-8, where</p> <p>14 a suspicious order needs to be reported</p> <p>15 if it's in deviation of size, pattern or</p> <p>16 frequency at the time that that deviation</p> <p>17 is discovered, that's what's said here in</p> <p>18 this letter, correct?</p> <p>19 MR. JONES: Objection.</p> <p>20 Form. Document speaks for itself.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Go ahead.</p> <p>23 A. Correct.</p> <p>24 Q. Schein reported it as a</p> |
| <p style="text-align: right;">Page 195</p> <p>1 distinct from that, there was an</p> <p>2 obligation to then do due diligence?</p> <p>3 That's at least what the DEA</p> <p>4 is telling Schein here in 2006, correct?</p> <p>5 MR. JONES: Same objections.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. That system, though, was not</p> <p>9 put in place at Schein where the</p> <p>10 reporting occurred before due diligence</p> <p>11 until, I think you said, after the</p> <p>12 Masters decision, correct?</p> <p>13 MR. JONES: Objection.</p> <p>14 Vague. Objection as to time.</p> <p>15 THE WITNESS: So what time</p> <p>16 periods are you referring to?</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. The Schein system didn't</p> <p>19 report that way, that is, suspicious</p> <p>20 orders the way it's described here in the</p> <p>21 Rannazzisi letter, didn't report that way</p> <p>22 to DEA until after the Masters decision</p> <p>23 in 2017, correct?</p> <p>24 MR. JONES: Object to the</p> | <p style="text-align: right;">Page 197</p> <p>1 suspicious order to DEA only after it did</p> <p>2 due diligence and determined that it was</p> <p>3 suspicious, until the Masters decision in</p> <p>4 2017, correct?</p> <p>5 A. Correct.</p> <p>6 MR. JONES: Asked and</p> <p>7 answered. Objection. Asked and</p> <p>8 answered.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. Only after Masters did</p> <p>11 Schein begin to report suspicious orders</p> <p>12 when they deviated from size, pattern and</p> <p>13 frequency and then performed due</p> <p>14 diligence to determine whether or not to</p> <p>15 ship the order, correct?</p> <p>16 A. Correct.</p> <p>17 Q. The letter goes on to say,</p> <p>18 In a similar vein, given the requirement</p> <p>19 under Section 823(e) that a distributor</p> <p>20 maintain effective controls against</p> <p>21 diversion, a distributor may not simply</p> <p>22 rely on the fact that the person placing</p> <p>23 the suspicious order is a DEA registrant</p> <p>24 and turn a blind eye to the suspicious</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 198</p> <p>1 circumstances.</p> <p>2 So verification in and of</p> <p>3 itself is not due diligence; is that a</p> <p>4 fair statement?</p> <p>5 MR. JONES: Objection.</p> <p>6 Form. Vague. Overly broad.</p> <p>7 Misstates the document.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. Will you agree with that?</p> <p>10 A. License verification?</p> <p>11 Q. Yes.</p> <p>12 A. Yes.</p> <p>13 Q. So the fact, merely, that</p> <p>14 somebody has a DEA registration, one of</p> <p>15 the customers of Schein, or is registered</p> <p>16 with the Ohio Board of Pharmacy, that</p> <p>17 process, while it's part of your due</p> <p>18 diligence to make sure they, in fact, are</p> <p>19 licensed, that is not a sufficient amount</p> <p>20 of due diligence at any time from 1996 to</p> <p>21 present, that's not enough due diligence</p> <p>22 at any level, correct?</p> <p>23 MR. JONES: Object as to</p> <p>24 form. Overly broad. Vague.</p> | <p style="text-align: right;">Page 200</p> <p>1 Form. Vague. Overly broad.</p> <p>2 Compound.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. All right. And then this</p> <p>7 same letter in 2006 lists certain</p> <p>8 activities that should raise suspicions</p> <p>9 of a concern, at least, for diversion of</p> <p>10 controlled substances.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And if you go through some</p> <p>14 of these, ordering excessive quantities</p> <p>15 of a limited variety of controlled</p> <p>16 substances while ordering few, if any,</p> <p>17 other drugs; that will be a red flag,</p> <p>18 correct?</p> <p>19 A. A potential red flag, yes.</p> <p>20 Q. And in terms of putting that</p> <p>21 into the Henry Schein due diligence</p> <p>22 program, that really started some time in</p> <p>23 2011 and '12, correct?</p> <p>24 MR. JONES: Objection.</p> |
| <p style="text-align: right;">Page 199</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Do you want me to restate</p> <p>4 it?</p> <p>5 A. No.</p> <p>6 Yes.</p> <p>7 Q. So if we were to start in</p> <p>8 1996, due diligence has always been more</p> <p>9 than just verification, according to the</p> <p>10 Controlled Substances Act, correct?</p> <p>11 A. Which time are you talking</p> <p>12 about? The time period from --</p> <p>13 Q. From 1996 on.</p> <p>14 A. Yes.</p> <p>15 Q. That is, because you had a</p> <p>16 license, you were required to design a</p> <p>17 system and monitor a system, but the mere</p> <p>18 fact of a physician or a healthcare</p> <p>19 provider having a license, that wasn't,</p> <p>20 by itself, sufficient due diligence with</p> <p>21 respect to investigating what could</p> <p>22 potentially be a suspicious order,</p> <p>23 correct?</p> <p>24 MR. JONES: Objection.</p> | <p style="text-align: right;">Page 201</p> <p>1 Form.</p> <p>2 THE WITNESS: So when you</p> <p>3 say "in part of that program"?</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. So the initial due diligence</p> <p>6 program that we talked about was really</p> <p>7 if an order triggered and became pended</p> <p>8 in the Henry Schein system, a form -- a</p> <p>9 one-page form would be mailed out to the</p> <p>10 doctor -- let's start in 2006 -- a</p> <p>11 one-page form would be sent out to the</p> <p>12 doctor, the doctor would send it back</p> <p>13 filling in the different information</p> <p>14 requested.</p> <p>15 And that would be a basis</p> <p>16 for a determination about whether an</p> <p>17 order was suspicious; is that true?</p> <p>18 A. True.</p> <p>19 Q. That system evolved, as you</p> <p>20 said, over time.</p> <p>21 And the on-site visits and</p> <p>22 the phone calls and the Internet</p> <p>23 searches, that really began around 2012,</p> <p>24 correct?</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 202</p> <p>1 A. That's right.</p> <p>2 Q. And in 2012, you would look</p> <p>3 at factors like the -- let's see,</p> <p>4 ordering excessive quantities of a</p> <p>5 limited variety of controlled substance</p> <p>6 in combination with excessive quantity of</p> <p>7 lifestyle drugs.</p> <p>8 Sort of the analysis of</p> <p>9 dispensing history and on-site visits,</p> <p>10 that really was an evolution of the Know</p> <p>11 Your Customer policies that began in</p> <p>12 2012, ramping up to 2015, right?</p> <p>13 MR. JONES: Objection.</p> <p>14 Form. Overly broad. Vague.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Is that right?</p> <p>17 A. It may have been prior to</p> <p>18 that. I don't remember the exact year.</p> <p>19 Q. Well, you know that the</p> <p>20 suspicious order monitoring program</p> <p>21 revision that started to look at the due</p> <p>22 diligence component began in 2009.</p> <p>23 Have you heard of the</p> <p>24 company Buzzeo?</p> | <p style="text-align: right;">Page 204</p> <p>1 MR. MIGLIORI: How about,</p> <p>2 let me -- just give me one second,</p> <p>3 because it might cause me to cut</p> <p>4 out some of these documents.</p> <p>5 Can you give me ten minutes,</p> <p>6 does that work?</p> <p>7 MR. JONES: Ten minutes</p> <p>8 to --</p> <p>9 MR. MIGLIORI: Before we</p> <p>10 break.</p> <p>11 MR. JONES: Yes.</p> <p>12 MR. MIGLIORI: Thanks.</p> <p>13 This is Exhibit Number 9.</p> <p>14 - - -</p> <p>15 (Whereupon, Exhibit</p> <p>16 Schein-Abreu-9,</p> <p>17 HSI-MDL-000993112-115, was marked</p> <p>18 for identification.)</p> <p>19 - - -</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. This is the February 7, 2007</p> <p>22 Rannazzisi letter.</p> <p>23 Again, this was -- if you</p> <p>24 look at the bottom of this document, it's</p> |
| <p style="text-align: right;">Page 203</p> <p>1 A. Yes.</p> <p>2 Q. Did you ever work with</p> <p>3 Buzzeo?</p> <p>4 A. Yes.</p> <p>5 Q. And Buzzeo was brought in to</p> <p>6 help redesign the suspicious order</p> <p>7 monitoring program and develop the Know</p> <p>8 Your Customer component as part of its</p> <p>9 charge, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And that charge, really, was</p> <p>12 investigated and analyzed over time; but</p> <p>13 it really wasn't until 2010, '11, '12,</p> <p>14 that those aspects of Know Your Customer</p> <p>15 were codified in changes to the standard</p> <p>16 operating procedures, correct?</p> <p>17 MR. JONES: Object to form.</p> <p>18 Overly broad. Object as to time.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. Is that correct?</p> <p>21 A. Sounds right, yes.</p> <p>22 MR. JONES: Don, lunch is</p> <p>23 here, if you're at a transition</p> <p>24 point.</p> | <p style="text-align: right;">Page 205</p> <p>1 got the HSI number on it. So that's</p> <p>2 produced to us by Henry Schein.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. I will simplify this by just</p> <p>6 simply saying, you'll agree with me that</p> <p>7 Henry Schein was, in fact, in receipt of</p> <p>8 this particular Rannazzisi letter,</p> <p>9 correct?</p> <p>10 A. Right.</p> <p>11 Q. And I'll accept that this</p> <p>12 letter speaks for itself in its contents.</p> <p>13 It does talk about the</p> <p>14 obligations, though, of the distributor</p> <p>15 of controlled substances, correct?</p> <p>16 A. Yes.</p> <p>17 Q. It uses the same term here</p> <p>18 that the letter is to reiterate the</p> <p>19 responsibilities, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Meaning it's to remind the</p> <p>22 company of the responsibilities, not to</p> <p>23 state new responsibilities.</p> <p>24 Do you understand that?</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 206</p> <p>1 MR. JONES: Objection to 2 form. The document speaks for 3 itself. Goes outside the scope. 4 BY MR. MIGLIORI: 5 Q. You'll agree with me the 6 word "reiterate" has that meaning, right? 7 A. Yes. 8 Q. All right. 9 And then your company also 10 produced to us and showed that it was in 11 receipt of the December 27th, 2007 Dear 12 Registrant letter. 13 - - - 14 (Whereupon, Exhibit 15 Schein-Abreu-10, 16 HSI-MDL-00404079-080, was marked 17 for identification.) 18 - - - 19 MR. WICKS: Is that a 20 separate exhibit? 21 MR. MIGLIORI: Yes. This is 22 Number 10. This one, actually, 23 not only was produced by Henry 24 Schein by Bates number, but</p> | <p style="text-align: right;">Page 208</p> <p>1 respect to distributing controlled 2 substances and reiterating the 3 responsibility of the distributor, 4 manufacturer for controlled substances, 5 correct? 6 A. Correct. 7 Q. And it talks about the 8 obligation to design and operate a 9 suspicious order monitoring program. 10 It says here, though, in the 11 middle of the second paragraph, The 12 regulation clearly indicates that it is 13 the sole responsibility of the 14 registrant -- you'll agree with me that 15 in this context that's Henry Schein, 16 Inc., correct? 17 A. Yes. 18 Q. It's the sole responsibility 19 of the registrant to design and operate 20 such a system. Accordingly, DEA does not 21 approve or otherwise endorse any specific 22 system for reporting suspicious orders. 23 Past communications with DEA, whether 24 implicit or explicit, that can be</p> |
| <p style="text-align: right;">Page 207</p> <p>1 actually has -- addressed to Henry 2 Schein in Jacksonville, Florida. 3 BY MR. MIGLIORI: 4 Q. Is this address in 5 Jacksonville, is that a distribution 6 center? 7 A. Yes. 8 MR. JONES: Just so we're 9 clear, I mean, I've got a copy, 10 and it looks like you're working 11 from one, too, that's got some 12 edits and marks on it. 13 MR. MIGLIORI: That's how it 14 was produced. I did not -- this 15 is not a copy that we copied of 16 ours. 17 MR. JONES: Okay. 18 BY MR. MIGLIORI: 19 Q. And if that proves not to be 20 true, I'm happy to substitute. But 21 that's how I received it, so I assume 22 that's how we produced it. 23 And in this letter it, 24 again, talks about the obligations with</p> | <p style="text-align: right;">Page 209</p> <p>1 construed as an approval of a particular 2 system for reporting suspicious orders 3 should no longer be taken to mean that 4 DEA approves a specific system. 5 Did you, at Henry Schein, 6 appreciate that conversations with DEA 7 were not to be deemed or viewed as 8 approval of any particular suspicious 9 order monitoring program at Henry Schein? 10 MR. JONES: Objection. 11 Form. You mean as of the time of 12 the receipt of this letter? 13 MR. MIGLIORI: He can 14 clarify. 15 BY MR. MIGLIORI: 16 Q. I mean period. 17 But if you have a 18 qualification in terms of when it may or 19 when it may not, you can tell me that. 20 MR. JONES: Object to the 21 form. Overly broad. Object as to 22 time. 23 THE WITNESS: We did have 24 several conversations with DEA</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 210</p> <p>1 regarding our reporting. 2 BY MR. MIGLIORI: 3 Q. And did you understand in 4 those conversations, at least to the 5 extent that they occurred after 2007, 6 that those weren't to be construed as 7 approvals of your program? 8 MR. JONES: Objection. 9 Form. Objection as to the 10 mischaracterization of Exhibit-10. 11 THE WITNESS: I understood 12 it's not approval, per se, but, 13 you know, if we were doing 14 something that we shouldn't have 15 been doing, or should be doing 16 something different, we also would 17 have expected that they informed 18 us. 19 BY MR. MIGLIORI: 20 Q. But to represent to any 21 other entity that your suspicious order 22 monitoring program was approved by the 23 DEA, you understood that that was not 24 something DEA would have agreed to?</p> | <p style="text-align: right;">Page 212</p> <p>1 to the local DEA division when 2 discovered -- again, I didn't do that 3 writing, but you see that here in the 4 document, correct? 5 A. Correct. 6 Q. -- by the registrant, 7 filling a monthly report of completed 8 transactions, for example, excessive 9 purchase report or high unit purchases, 10 does not meet the regulatory requirement 11 to report suspicious orders. 12 Were you aware of that 13 guidance from the DEA in 2006? 14 MR. JONES: Objection. I 15 think you mean 2007. 16 MR. MIGLIORI: 2007, I'm 17 sorry. 18 THE WITNESS: Based on this 19 letter. 20 BY MR. MIGLIORI: 21 Q. And registrants are reminded 22 that their responsibility does not end 23 merely with the filing of a suspicious 24 order report.</p> |
| <p style="text-align: right;">Page 211</p> <p>1 MR. JONES: Objection. 2 Form. Objection insofar as it 3 mischaracterizes the document, 4 Exhibit-10. 5 THE WITNESS: I understand 6 it's not an official approval, 7 yes. 8 BY MR. MIGLIORI: 9 Q. Okay. And you understand, 10 and it was true as of 2006, and still 11 true today, that the obligation to design 12 and operate a system to prevent diversion 13 is the responsibility of the registrant, 14 not the DEA? 15 MR. JONES: Objection to 16 form. Goes outside the scope. 17 BY MR. MIGLIORI: 18 Q. You understand that, right? 19 MR. JONES: Same objections. 20 THE WITNESS: Yes. 21 BY MR. MIGLIORI: 22 Q. So if you go a little 23 further down, it continues to talk about 24 how suspicious orders have to be reported</p> | <p style="text-align: right;">Page 213</p> <p>1 That is, the filing of the 2 report does not relieve the distributor, 3 does not relieve Henry Schein, of its 4 obligation to prevent diversion, correct? 5 A. Yes. 6 MR. JONES: Object to the 7 form. Outside the scope. 8 BY MR. MIGLIORI: 9 Q. Registrants must conduct an 10 independent analysis of suspicious 11 orders, prior to completing a sale, to 12 determine whether the controlled 13 substances are likely to be diverted from 14 legitimate channels. 15 So at least according to 16 this letter in 2007, the DEA is telling 17 Henry Schein that after reporting a 18 suspicious order, the registrant, Henry 19 Schein, must conduct independent analysis 20 of suspicious orders, must perform due 21 diligence. 22 That's what this letter 23 says, correct? 24 MR. JONES: Objection.</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 214</p> <p>1 Form. Document speaks for itself.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Correct?</p> <p>4 A. Correct.</p> <p>5 Q. Reporting an order as</p> <p>6 suspicious will not absolve the</p> <p>7 registrant of responsibility if the</p> <p>8 registrant knew or should have known that</p> <p>9 the controlled substances were being</p> <p>10 diverted.</p> <p>11 So the mere reporting of the</p> <p>12 suspicious order to DEA does not relieve</p> <p>13 Schein, or any other registrant, of its</p> <p>14 obligation to know, or learn when it</p> <p>15 should know, that a controlled substance</p> <p>16 was being diverted?</p> <p>17 MR. JONES: Objection.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. That was expressed to Schein</p> <p>20 in 2007, correct?</p> <p>21 MR. JONES: Objection to</p> <p>22 form. The document speaks for</p> <p>23 itself. Goes outside the scope.</p> <p>24 BY MR. MIGLIORI:</p> | <p style="text-align: right;">Page 216</p> <p>1 DEA at that time it's discovered as a</p> <p>2 suspicious order; that's what this</p> <p>3 document says, correct?</p> <p>4 MR. JONES: Objection.</p> <p>5 Form. The document speaks for</p> <p>6 itself. You don't need him to</p> <p>7 tell you that you read it right.</p> <p>8 And insofar as you're asking for</p> <p>9 him to give you a legal</p> <p>10 interpretation or if he agrees</p> <p>11 with your construction of it,</p> <p>12 that's outside the scope.</p> <p>13 Objection.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Correct?</p> <p>16 A. Yes.</p> <p>17 Q. So if it only triggers one</p> <p>18 of those things, that is, when it says,</p> <p>19 for example, if an order deviates</p> <p>20 substantially from a normal pattern, that</p> <p>21 alone requires a report of that order to</p> <p>22 the DEA as suspicious, correct?</p> <p>23 MR. JONES: Same objections.</p> <p>24 Outside the scope.</p> |
| <p style="text-align: right;">Page 215</p> <p>1 Q. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. The regulation specifically</p> <p>4 states that suspicious orders include</p> <p>5 orders of unusual size, orders deviating</p> <p>6 substantially from a normal pattern and</p> <p>7 orders of an unusual frequency. These</p> <p>8 criteria are disjunctive and are not</p> <p>9 all-inclusive. For example, if an order</p> <p>10 deviates substantially from a normal</p> <p>11 pattern, the size of the order does not</p> <p>12 matter and the order should not -- should</p> <p>13 be reported as suspicious.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. I kind of screwed up the</p> <p>17 reading of it, so I want to make sure we</p> <p>18 understand it.</p> <p>19 The three issues, unusual</p> <p>20 size, unusual pattern, unusual frequency</p> <p>21 are disjunctive, meaning if any one of</p> <p>22 those factors shows a deviation in an</p> <p>23 order, according to Joe Rannazzisi in</p> <p>24 2007, that order must be reported to the</p> | <p style="text-align: right;">Page 217</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. Correct?</p> <p>3 A. Based on what the document</p> <p>4 says --</p> <p>5 Q. Yes.</p> <p>6 A. -- yes.</p> <p>7 Q. So the same would be true</p> <p>8 with abnormal size, if an order didn't</p> <p>9 deviate from a pattern but it was a</p> <p>10 deviation in size, that alone, according</p> <p>11 to this letter in December of 2007, would</p> <p>12 necessitate a reporting of that order as</p> <p>13 suspicious to the local DEA field office,</p> <p>14 correct?</p> <p>15 MR. JONES: Objection.</p> <p>16 Form. Calls for a legal</p> <p>17 conclusion. Outside the scope.</p> <p>18 THE WITNESS: Based on the</p> <p>19 letter, yes.</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. All right. It goes on to</p> <p>22 say, Likewise, a registrant need not wait</p> <p>23 for a normal pattern to develop over time</p> <p>24 before determining whether a particular</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 218</p> <p>1 order is suspicious. The size of an 2 order alone, whether or not it deviates 3 from a normal pattern, is enough to 4 trigger the registrant's responsibility 5 to report the order as suspicious. The 6 determination of whether an order is 7 suspicious depends not only on the 8 ordering patterns of the particular 9 customer, but also on the patterns of the 10 registrant's customer base and the 11 patterns throughout the relevant segment 12 of the regulated industry.</p> <p>13 So in Schein's system in 14 2007, the thresholds for looking for 15 deviations in size, pattern and frequency 16 were not based on the individual 17 customer, but they were, in fact, based 18 on a relevant segment of that customer's 19 industry, correct?</p> <p>20 MR. JONES: Objection.</p> <p>21 Vague.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. Correct?</p> <p>24 MR. JONES: Objection to the</p> | <p style="text-align: right;">Page 220</p> <p>1 author, Joe Rannazzisi.</p> <p>2 On the second page of this 3 exhibit, Number 10, the December 2007 4 letter to Schein, it says, Registrants -- 5 or Schein in this case -- that rely on 6 rigid formulas to define whether an order 7 is suspicious may be failing to detect 8 suspicious orders. For example, a system 9 that identifies orders as suspicious only 10 if the total amount of controlled 11 substances ordered during one month 12 exceeds the amount ordered for the 13 previous month by a certain percentage or 14 more is insufficient.</p> <p>15 Do you understand that the 16 mere creation of a formula to pick up a 17 deviation in size and a deviation in 18 pattern or frequency, by itself, may not 19 be sufficient to comply with the DEA's 20 suspicious ordering -- suspicious order 21 reporting requirements?</p> <p>22 MR. JONES: Objection.</p> <p>23 Form. Misstates the document.</p> <p>24 Calls for a legal conclusion.</p> |
| <p style="text-align: right;">Page 219</p> <p>1 sidebar.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Correct?</p> <p>4 A. Correct.</p> <p>5 Q. And at least in this letter 6 that Henry Schein received in December of 7 2007, it says that the determination of 8 whether an order was suspicious depends 9 not only on the ordering patterns of the 10 particular customer, but also of the 11 relevant segment of the industry.</p> <p>12 That is, if it triggered a 13 change in size, pattern or frequency for 14 the industry, not just for the customer, 15 according to this letter, that was 16 something that needed to be reported as 17 suspicious to the DEA, correct?</p> <p>18 MR. JONES: Objection.</p> <p>19 Form. Calls for a legal 20 conclusion. Outside the scope.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Correct?</p> <p>23 A. Correct, yes.</p> <p>24 Q. Again, this is the same</p> | <p style="text-align: right;">Page 221</p> <p>1 Outside the scope, insofar as it's 2 referencing the letter.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Do you agree?</p> <p>5 A. Can you restate that 6 question?</p> <p>7 Q. Sure.</p> <p>8 Simply stated, it's not 9 enough to just have a formula to identify 10 suspicious orders, according to this 11 letter that Schein received in 2007, the 12 formula has to have some sensitivity to 13 other factors that may prove or show 14 deviation in size, frequency and pattern, 15 correct?</p> <p>16 MR. JONES: Objection.</p> <p>17 Form. The document speaks for 18 itself. Insofar as you're asking 19 the witness for his interpretation 20 of the letter, it's outside the 21 scope.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. Do you agree with that?</p> <p>24 A. Yes.</p> |

Page 222

1 Q. All right. And it's also
 2 true that a mere threshold number, a
 3 threshold system, by itself, is not a
 4 complete suspicious order monitoring
 5 program? That is, you can have a
 6 suspicious order that does not trigger a
 7 deviation in size, frequency and pattern,
 8 correct?

9 MR. JONES: Objection.
 10 Form. Compound. Calls for
 11 speculation. Vague.

12 BY MR. MIGLIORI:
 13 Q. Correct?
 14 A. Yes.
 15 Q. In fact, that's the whole
 16 concept behind Know Your Customer and due
 17 diligence, that an order on its face that
 18 does not trigger a threshold may be
 19 suspicious upon due diligence and
 20 investigation of other factors besides
 21 the size of the order, correct?

22 MR. JONES: Objection.
 23 Form. Vague. Calls for
 24 speculation. Lack of foundation.

Page 223

1 BY MR. MIGLIORI:
 2 Q. Correct?
 3 A. Yes.
 4 Q. So any suspicious order
 5 monitoring program that solely relies on
 6 a formula to determine whether the order
 7 deviates from size, pattern or frequency
 8 is, on its face, insufficient to find
 9 suspicious orders; it requires a
 10 component part of Know Your Customer and
 11 due diligence, correct?

12 MR. JONES: Objection.
 13 Form. Outside the scope. Vague.

14 BY MR. MIGLIORI:
 15 Q. Correct?
 16 A. Due diligence is a
 17 component, yes.
 18 Q. And it's a separate
 19 component? That is, if, for example, a
 20 dentist is receiving an order that is not
 21 a deviation from size, pattern and
 22 frequency but to a home address and not a
 23 business office, that is an order that
 24 needs to have further investigation

Page 224

1 before shipped, correct?
 2 A. Potentially, yes.
 3 Q. So a robust suspicious --
 4 MR. JONES: Hang on, I think
 5 you got it -- was your answer
 6 essentially, yes or potentially
 7 yes?

8 THE WITNESS: Potentially.
 9 MR. MIGLIORI: I'll give you
 10 plenty of time to redirect him.
 11 That's a little bit over the
 12 border. You seem like a nice guy
 13 and that's a little bit on the
 14 edge. I'll go at it again.

15 BY MR. MIGLIORI:
 16 Q. You have, in fact, been
 17 involved in orders at Schein where
 18 something was deemed pended and, in fact,
 19 ultimately deemed suspicious because you
 20 found out that the orders were going to
 21 the doctor's house, correct?

22 A. Yes.
 23 Q. And so that is not a
 24 suspicious order because of a deviation

Page 225

1 in size, pattern or frequency, that's a
 2 suspicious order because you have an
 3 obligation to know the customer, correct?

4 A. Correct.
 5 Q. And so any system that only
 6 relies on an algorithm to trip a system
 7 to find a pended or suspicious order is
 8 not a complete system, correct?

9 MR. JONES: Objection.
 10 Form. Vague. Objection as to
 11 time.


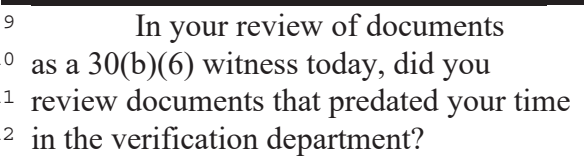
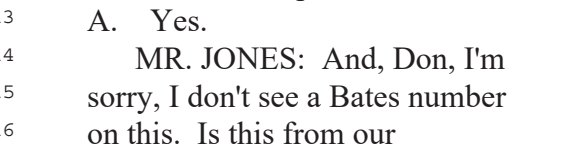
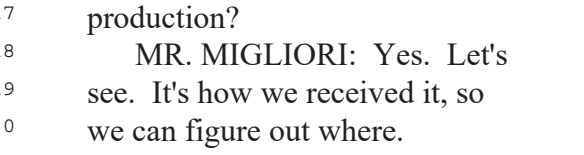
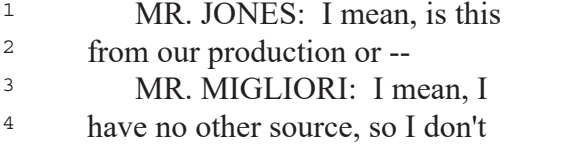
12 BY MR. MIGLIORI:
 13 Q. Correct?
 14 A. Correct.
 15 Q. And, in fact, in this letter
 16 in 2007, that's what Joe Rannazzisi is
 17 referencing when he sends this to Schein,
 18 Inc., that a rigid formula by itself is
 19 not enough; you need to do more, you need
 20 to Know Your Customer to make sure that
 21 the controlled substances that you're
 22 supplying and selling don't end up in the
 23 wrong hands, correct?

24 MR. JONES: Again,

Page 226

1 objection. Form. The document
 2 speaks for itself. Outside the
 3 scope.
 4 BY MR. MIGLIORI:
 5 Q. Correct?
 6 A. Yes.
 7 MR. MIGLIORI: All right.
 8 Why don't we take a break for
 9 lunch?
 10 VIDEO TECHNICIAN: The time
 11 is now 12:31 p.m. We're going off
 12 the record.
 13 - - -
 14 (Whereupon, a luncheon
 15 recess was taken.)
 16 - - -
 17 VIDEO TECHNICIAN: The time
 18 is now 1:20 p.m. We are back on
 19 the record.
 20 - - -
 21 (Whereupon, Exhibit
 22 Schein-Abreu-11,
 23 HSI-MDL-00404222-223, was marked
 24 for identification.)


Page 227

1 - - -
 2 BY MR. MIGLIORI:
 3 
 4 
 5 
 6 
 7 
 8 In your review of documents
 9 as a 30(b)(6) witness today, did you
 10 review documents that predated your time
 11 in the verification department?
 12 A. Yes.
 13 MR. JONES: And, Don, I'm
 14 sorry, I don't see a Bates number
 15 on this. Is this from our
 16 production?
 17 MR. MIGLIORI: Yes. Let's
 18 see. It's how we received it, so
 19 we can figure out where.
 20 MR. JONES: I mean, is this
 21 from our production or --
 22 MR. MIGLIORI: I mean, I
 23 have no other source, so I don't
 24

Page 228

1 know how else I would have gotten
 2 it.
 3 MR. JONES: That was going
 4 to be my next question.
 5 MR. MIGLIORI: But I do
 6 notice some of your documents,
 7 just for clarification, only have
 8 one page. So I'm wondering if
 9 there was a blank page that had a
 10 Bates number on top. Some of them
 11 don't have Bates numbers after the
 12 first page, as they were produced
 13 to us. So I'll figure that out.
 14 MR. JONES: Okay. All
 15 right. Thank you.
 16 MR. MIGLIORI: No problem.
 17 BY MR. MIGLIORI:
 18 Q. So the verification
 19 department is the department that you now
 20 run, correct?
 21 A. Correct.
 22 Q. Obviously, you were not
 23 there in 1992, correct?
 24 A. Correct.

Page 229

1 Q. But it did have a -- you did
 2 have some form of suspicious order
 3 monitoring system in place at the company
 4 before you got there, correct?
 5 A. Correct.
 6 Q. And so this memo is from a
 7 Wally White.
 8 Do you know who that is?
 9 A. No.
 10 Q. And it goes to the
 11 verification department, and then the
 12 Schein regulatory committee and C.
 13 Laskowski.
 14 Do you know who that is?
 15 A. I know who C. Laskowski is,
 16 yes.
 17 Q. Who is that?
 18 A. She currently is in IT.
 19 Q. But regulatory is where
 20 Sergio and Frank are, correct?
 21 A. Yes.
 22 

Page 230

[REDACTED]

Page 232

1 Schein-Abreu-12,
2 HSI-MDL-00404203-209, was marked
3 for identification.)
4 - - -
5 BY MR. MIGLIORI:
6 Q. Can you just tell me
7 generally what you understand Buzzeo to
8 be?
9 This is Exhibit Number 12
10 I'm handing you.
11 What's your understanding of
12 Buzzeo?
13 A. That they are a consultant
14 for industry, for regulatory compliance.
15 Q. And they are a consultant
16 with respect to suspicious order
17 monitoring designs, correct?
18 A. Among other things.
19 Q. Among other things, correct?
20 A. Correct.

[REDACTED]

Page 231

1 Q. And that was triggered by
2 computer, right, an algorithm?
3 A. Yes.
4 Q. And as of this time, the
5 Controlled Substances Act had been in
6 effect for 21 years.
7 At least on the face of the
8 Act, if this is the operational
9 definition of a suspicious order at
10 Schein, this order, if it exceeded any of
11 those parameters, the suspicious order
12 would have to be reported to the DEA at
13 the time it was discovered, correct?
14 MR. JONES: Object to the
15 form.
16 THE WITNESS: Yes, it would
17 be reported.
18 BY MR. MIGLIORI:
19 Q. Okay. I'm going to -- we
20 talked a little bit about Buzzeo. I want
21 to ask you some questions about that
22 company.
23 - - -
24 (Whereupon, Exhibit

Page 233

1 [REDACTED]

20 Do you know Kathie Malone?
21 A. No.
22 Q. Did you work with anybody at
23 Buzzeo once you started in verifications
24 in 2009?

Page 234

1 A. Yes.


2 Q. All right. But at that

3 point, at least, she wasn't one of the

4 people that you recall working with,

5 correct?

6 A. Not to my recollection.



Page 236

1 correct?

2 A. Correct.

3 Q. Were you ever involved with

4 manually changing thresholds once you

5 became a member of the verification team?

6 A. Individual customer

7 thresholds?

8 Q. Individual and/or aggregate.

9 A. Only recently, as I

10 mentioned earlier.

11 Q. When did you recently change

12 a threshold?

13 A. In 2018.

14 Q. And why did you do that?

15 A. We were evaluating false

16 positive pends.

17 Q. And false positive pends is

18 basically the system was spitting out


19 pended orders that, upon investigation or

20 reflection, either should not have been


21 pends or were missing pends that should

22 have been detected, correct?

23 A. As a result of -- yes.

24 

Page 235



3 Q. And the thresholds were not

4 automatically adjusted over time based on

5 anything; they were manually adjusted

6 based on new product entry since 2002,

7 correct?

8 A. I'm not sure about the

9 adjustment, the timing of adjustments.

10 Q. But you'll agree with me

11 that in 2005, thresholds were manually

12 adjusted, not automatically adjusted,

13 correct?

14 A. Correct.

15 Q. It wasn't based on an

16 algorithm, it was based -- or at least an

17 electronic algorithm, it was based on a

18 manual input from the discretion of some

19 human being to go in and change the

20 system, correct?


21 A. Yes.

22 Q. And that was done by the

23 team that you ultimately are now

24 responsible for, the verification team,

Page 237

1 

Page 238


1 Is it true that as of
2 September 16, 2005, Henry Schein's
3 suspicious monitoring program only
4 triggered excessive orders and was not
5 triggering deviations in frequency and
6 patterns?
7 A. Yes.
8 Q. When an order pends, the
9 investigation conducted by the
10 verification team includes the review of
11 ordering frequency and patterns; however,
12 this review will only occur if the order
13 reaches the threshold limit.
14 So it's fair to say that as
15 of September of 2005, normal-sized
16 orders, that is, orders that were not in
17 excess of prior orders but were different
18 in frequency and pattern, were not being
19 detected in the suspicious order
20 monitoring programs at Henry Schein?
21 MR. JONES: Objection.
22 Form. Vague.
23 BY MR. MIGLIORI:
24 Q. Correct?

Page 239


1 A. Yes.



Page 240



Page 241




6 Were you a part of any
7 process to implement regular, formal
8 periodic reviews of threshold data?
9 MR. JONES: Objection.
10 Form. Vague.
11 THE WITNESS: In this time
12 period?
13 BY MR. MIGLIORI:
14 Q. At any time.
15 Were you personally involved
16 in implementing a new system of formal,
17 regular periodic review of the threshold
18 data?
19 A. Yes.
20 Q. And when did you first
21 become involved with that?
22 A. When I began in the position
23 in 2009.
24 Q. Okay. So you're not --

Page 242

1 other than what's in this document, you
2 don't have personal knowledge of when
3 periodic regular reviews of threshold
4 data began after this September 2005
5 document, correct?

6 A. Correct.



Page 244

1



17 Q. Okay. Do you know when that
18 process became part of the program?


19 A. I would say in 2009.

20 Q. And why do you put it in
21 2009?

22 A. Because that was when our
23 enhanced system went live.

24 Q. And the enhanced system,

Page 243



Page 245

1 we'll talk about that very, very shortly,
2 but the enhanced system is a result of
3 the Buzzeeo interactive process of
4 reviewing the existing systems and these
5 recommendations, correct?

6 MR. JONES: Objection.

7 Form. Foundation.

8 BY MR. MIGLIORI:

9 Q. If you don't recall now, I
10 have presentations later to show you.

11 But Buzzeeo was one of the
12 consultants on the enhanced suspicious
13 order monitoring program that you just
14 referenced, correct?

15 A. Correct.



Page 246

Page 248

24 In 2005, did Henry Schein

Page 247

Page 249

1 send to the DEA a list of pended orders
2 that were cleared from being suspicious?

3 A. Yes.

4 Q. And they did that on a
5 monthly basis?

6 A. Yes.

7 Q. The second report reflects
8 those orders that were deemed suspicious
9 and cancelled.

10 So on a monthly basis, both
11 those reports were submitted, correct?

12 A. Correct.

Page 250

[REDACTED]

Page 252

1 questionnaire.

2 Q. Okay. The letter is then

3 received and reviewed, and if the

4 explanation is found reasonable, the

5 order is released and the letter is

6 retained in the file.

7 Was that the process in

8 2005?

9 A. Yes.

10 Q. Is that letter kept, in the

11 ordinary course of business, in the same

12 place that the due diligence information

13 is kept?

14 A. Same system but different

15 database.

16 Q. All right. What database

17 would that letter go into?

18 A. So the letters from --

19 anything from prior to 2009 would have

20 been that microfilm area.

21 Q. But at least then, in that

22 microfilm area, all of the due diligence

23 pre-2009 would have been in the same

24 place as this letter, correct?

Page 251

[REDACTED]

15 So this was the letter we

16 were talking about earlier. There was,

17 at this time, in 2005, a process that

18 once, as they put it, an order pends as

19 suspicious, Schein sends that customer a

20 one-page questionnaire to fill out,

21 correct?

22 A. I think at this time period

23 it was more of a request of a letter from

24 the customer, rather than a

Page 253

1 A. Centralized, yes.

2 Q. And prior to 2009, any such

3 letters would be destroyed or purged?

4 A. Yes.

5 Q. Post-2009, any such letters,

6 questionnaires, due diligence, would

7 still be at Schein, and under the

8 retention policy, still retained,

9 correct?

10 A. Yes.

[REDACTED]

23 In other words, the one

24 letter isn't enough to clear future

Page 254

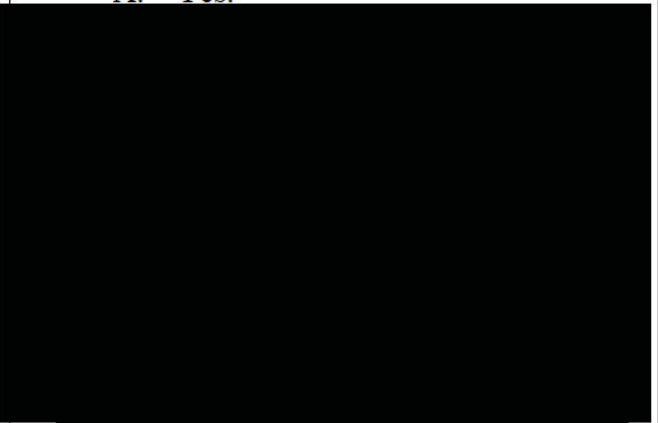
1 orders that are pending to be excessive,
 2 correct?
 3 MR. JONES: Objection.
 4 Form. Outside the scope. The
 5 document speaks for itself.
 6 BY MR. MIGLIORI:
 7 Q. Correct?
 8 A. So I would say no in that
 9 case.
 10 Q. Why?
 11 A. Because it's saying that the
 12 letter still could be considered to be
 13 used, but a review of that letter should
 14 be done.
 15 Q. Right. So maybe I was being
 16 a little too careful with the word.
 17 The letter itself is not
 18 enough to clear the future order, it
 19 requires verification that that letter
 20 still applies; is that a fair statement?
 21 MR. JONES: Hang on. Are
 22 you asking him if that's what the
 23 recommendation is, or if that's
 24 what Henry Schein's practice was?

Page 255

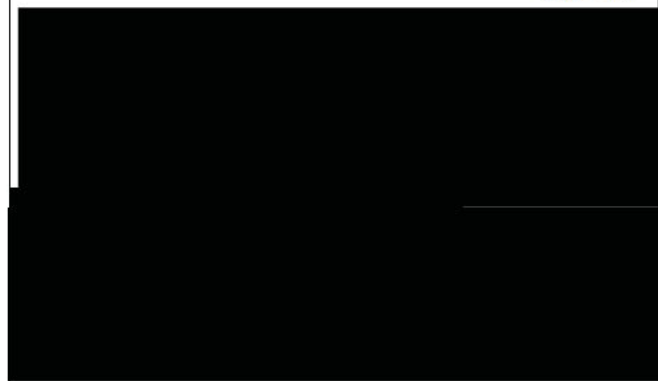
1 MR. MIGLIORI: I'm asking --
 2 MR. JONES: Or should have
 3 been.
 4 MR. MIGLIORI: Fair enough.
 5 BY MR. MIGLIORI:
 6 Q. That's what the
 7 recommendation is here, correct, that
 8 that letter be reviewed for whether or
 9 not it's still viable as an explanation
 10 for future orders, correct? That's the
 11 recommendation?
 12 A. Based on the recommendation,
 13 yes.
 14 Q. Did that ever get
 15 implemented, do you know?
 16 A. We would still -- we could
 17 still rely on existing due diligence to
 18 clear a future order.
 19 Q. Without any further
 20 investigation?
 21 A. Well, there would be some
 22 investigation taking place, to review the
 23 due diligence that we have.
 24 Q. Without any contact with the

Page 256


1 customer?
 2 A. Potentially, depending on
 3 the circumstances.
 4 Q. So there are instances, in
 5 your experience, where Schein will rely
 6 on a letter in the file for a prior
 7 pending order as a basis to clear a future
 8 order, without contacting the client?
 9 A. If the information contained
 10 in the letter still holds true, yes.
 11 Q. Is that still true as of
 12 today?
 13 A. Yes.



Page 257



11 Do you know who those two
 12 are?
 13 A. Yes.
 14 Q. Who are they?
 15 A. Ron Buzzeo was with Buzzeo,
 16 and Mike DiBello was a former director
 17 for regulatory affairs.
 18 Q. At Henry Schein?
 19 A. At Henry Schein



Page 258

[REDACTED]

10 Now, you just mentioned in a
11 prior answer false positives for
12 suspicious orders, correct?

13 A. Yes.

[REDACTED]

[REDACTED]

Page 259

[REDACTED]

17 As of 2005, Henry Schein
18 determined -- set its thresholds based on
19 aggregated data, correct?

20 A. Correct.

21 Q. As we saw from the last
22 document, that aggregated data, as of
23 2005, was the 2002 study of Jay Schein of
24 industry-wide behavior, correct?

Page 260

1 A. I'm not sure about the
2 industry-wide behavior.
3 Q. It wasn't based on the --
4 only upon the customers of Schein,
5 correct?
6 A. Again, I'm not sure on that.
7 Q. By the way, who is Jay
8 Schein?
9 A. I think he was a staff
10 pharmacist at the time.
11 Q. Related to Schein, Schein?
12 A. I've been told no, no
13 relation.
14 Q. Okay. So as of October of
15 2005, it was still the case that the
16 thresholds were set by aggregated data,
17 correct?
18 A. Correct.
19 Q. And here the concern is that
20 doing that creates a bunch -- a fair
21 number of false positives, meaning
22 suspicious orders that may be there or
23 suspicious orders that may be missed,
24 correct?

Page 261

1 MR. JONES: Objection.
2 Form. Misstates the document.
3 BY MR. MIGLIORI:
4 Q. You used the word "false
5 positives" before.
6 That's your understanding of
7 what a false positive is, correct?
8 A. Yes.
9 Q. All right. Did Henry Schein
10 change, ever, its threshold
11 determinations from aggregated data to
12 individual practitioner data, as
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 262

[REDACTED]

15 Now, we've talked about
16 Sergio Tejada.
17 Who is Craig Schiavo?
18 A. He was a former Henry Schein
19 regulatory employee.
20 Q. Maggie Wilding, we talked
21 about her, right?
22 A. Verification.
23 Q. Verification.
24 Patrick Hannehoe?

Page 263

1 A. He was one of the directors
2 of our IT at the time.
3 Q. Jaysari Pal?
4 A. She was an IT project
5 manager.
6 Q. Andi Tiller?
7 A. She -- I'm not sure what she
8 was then, but she works under the
9 regulatory as well.
10 Q. And Mark Wilburn?
11 A. Also a regulatory employee.
12 Was, sorry, former regulatory employee.
13 Q. So these are representatives
14 of regulatory, verification and IT,
15 correct?
16 A. Yes.

[REDACTED]

22 What is "IS"?
23 A. Information systems.
24 Q. So the IT?

Page 264

1 A. IT.
2 Q. IS agreed to start figuring
3 out how the system should be set up
4 immediately and will supply regulatory
5 with the specialty codes.
6 Are you familiar with this
7 decision, in October 2007, to set up an
8 electronic system through IS for the
9 suspicious monitoring program?
10 A. I know it was in process at
11 that time, yes.
12 Q. The system they were talking
13 about, it says, The system needs to be
14 able to set thresholds and flag all
15 suspicious orders.
16 Do you see that?
17 A. Yes.
18 Q. Now, by that, is this the
19 beginning of the process of Schein of
20 having the computer adjust for thresholds
21 versus manual input?
22 A. To create the project to do
23 it, yes.
24 Q. And that project began

Page 265

1 around 2007, 2008 and continued through
2 2009, correct?
3 A. Correct.
4 Q. And that's what you've
5 referred to as the enhanced program,
6 correct?
7 A. Yes.
8 Q. Then it talks about flagging
9 all suspicious orders based on those
10 thresholds, correct?
11 A. Which -- I'm sorry, where
12 are you reading from?
13 Q. The system needs to be able
14 to set thresholds and flag all suspicious
15 orders.
16 Correct?
17 A. Yes.
18 Q. So, again, the system would
19 automatically set a threshold and reset a
20 threshold, and the system would
21 automatically flag a suspicious order
22 based on that threshold, correct?
23 A. Yes.
24 Q. Exhibit-15.

Page 266

1 - - -

2 (Whereupon, Exhibit

3 Schein-Abreu-15,

4 HSI-MDL-00374284-285, was marked

5 for identification.)

6 - - -

7 BY MR. MIGLIORI:

8 Q. Another Henry Schein

9 document produced called, Suspicious

10 Monitoring System Specifications Draft.

11 I have from the metadata that this is

12 dated January 16th of 2008.

13 You'll see that the first

14 paragraph talks about the DEA standard

15 and requirement, correct?

16 A. Yes.

17 Q. The second one talks about

18 the need to inform the DEA of suspicious

19 orders when discovered by the registrant,

20 correct?

21 MR. JONES: Hang on. I

22 mean, if you're going to ask him

23 to confirm what the document says,

24 give him an opportunity to read

Page 267

1 it.

2 Again, I don't think you

3 need him to tell you what the

4 document says.

5 MR. MIGLIORI: If I don't do

6 it, then I don't get the

7 foundation. So you tell me which

8 objection you'd like us to follow,

9 and I'll be happy to follow it.

10 MR. JONES: If you want to

11 ask him a question about the

12 document, then let him read it,

13 then that's perfectly allowable.

14 MR. MIGLIORI: Let me know

15 when I'm not doing it right.

16 MR. JONES: Well, Don --

17 BY MR. MIGLIORI:

18 Q. The document says, The

19 regulation also requires the registrant

20 to inform the local DEA of suspicious

21 orders when discovered.

22 We've talked about that

23 several times today, correct?

24 A. Yes.

Page 268

1 Q. The DEA defines a suspicious

2 order as orders of unusual size, orders

3 deviating substantially from normal

4 pattern, and orders of unusual frequency.

5 You'll agree with me that

6 this document from Henry Schein

7 acknowledges the definition of a

8 suspicious order that the DEA has,

9 correct?

10 A. Correct.

11 Q. And that these criteria are

12 disjunctive and not inclusive, that means

13 a trip of any one of those deviations is

14 enough for it to become a suspicious

15 order, correct?

16 A. Yes.

17 Q. And then it restates, again,

18 that registrants that rely on rigid

19 formulas to define whether an order is

20 suspicious may be failing to detect them.

21 We've seen that language in

22 other documents, including this one from

23 Henry Schein, correct?

24 A. Correct.

Page 269

1 MR. JONES: Now, just to be

2 clear, I mean, I know that this

3 came from our production, but are

4 you representing that this was

5 something that was prepared by

6 somebody within Henry Schein?

7 MR. MIGLIORI: I think the

8 next question will answer that.

9 MR. JONES: Okay.

10 BY MR. MIGLIORI:

11 Q. The new monitoring system

12 will review orders based on -- and then

13 it gives three categories -- customer's

14 market segment; medical, dentistry,

15 veterinary, specialty. Purchasing

16 patterns; low, large patterns. And

17 productive ingredient.

18 Are those the four areas of

19 threshold data that were added to the new

20 enhanced program that you spoke of?

21 A. We also had added practice

22 type as one of the fields.

23 Q. So market segment and

24 practice type?

Page 270

1 A. Uh-huh.
 2 Q. Okay. And those would be
 3 part of the enhanced program that
 4 ultimately got fully implemented in 2009,
 5 correct?
 6 A. Correct.
 7 Q. All right. Exhibit Number
 8 16.
 9 - - -
 10 (Whereupon, Exhibit
 11 Schein-Abreu-16, HSI-MDL-00040712,
 12 was marked for identification.)
 13 - - -
 14 BY MR. MIGLIORI:
 15 Q. This is a document, through
 16 metadata, that's dated November 2nd of
 17 2009.
 18 So at this point, you would
 19 now -- you would now have been in the
 20 verification department for a month or
 21 so, correct?
 22 A. Yes.
 23 Q. This is a November 2nd, 2009
 24 PowerPoint presentation of -- I refer to

Page 271

1 it as Dendrite.
 2 How do you pronounce the
 3 full name, do you know?
 4 A. Cegedim.
 5 Q. Cegedim Dendrite.
 6 Compliance solutions powered
 7 by Buzzeo. So this is the Buzzeo company
 8 that we've been referring to over the
 9 past two years, that is, from 2007
 10 through this date, November of 2009,
 11 correct?
 12 A. Correct.
 13 Q. They have the Seventh Annual
 14 Controlled Substance Conference, current
 15 DEA challenges from a distributor's
 16 perspective, and presenting with Buzzeo
 17 is Mike DiBello.
 18 And I think you told me
 19 earlier that he was the director, at the
 20 time, of regulatory affairs for your
 21 company, Henry Schein, correct?
 22 A. Correct.
 23 Q. And so have you seen this
 24 before, by the way?

Page 272

1 A. No.
 2 Q. All right. So in this
 3 presentation, he talks about the company
 4 generally, the suspicious order
 5 monitoring program and its challenges in
 6 the system at Henry Schein, and some of
 7 the other -- new accounts setup, standard
 8 operating procedures, some of the other
 9 things that we've already talked about a
 10 lot today, correct?
 11 A. Yes.
 12 Q. He states that, Henry Schein
 13 is the largest distributor of healthcare
 14 products and services to office-based
 15 practitioners in the combined North
 16 America and European markets.
 17 Were you aware of that?
 18 A. Yes.
 19 Q. Customers include dental
 20 practices and laboratories, physician
 21 practices and animal health clinics, as
 22 well as government and other
 23 institutions.
 24 And, in 23 countries over \$6

Page 273

1 billion in sales.
 2 Were you familiar with that?
 3 A. Yes.
 4 Q. They recite the, yet again,
 5 the DEA regulations, this time from the
 6 December 2010 letter from the DEA that we
 7 already talked about, correct?
 8 A. Uh-huh, yes.
 9 Q. On Page 4.
 10 It talks about the unclear
 11 requirements with lack of guidance as to
 12 Know Your Customer.
 13 You'll agree with me that
 14 this enhanced program had a substantial
 15 focus on trying to define and implement
 16 best practices for the Know Your Customer
 17 requirement, correct?
 18 A. Yes.
 19 Q. Know Your Customer
 20 requirements have always existed, but at
 21 this time, in 2009, what was deemed to be
 22 sufficient or compliant was something
 23 that everybody, all the distributors in
 24 your industry, had been working on,

Page 274

1 correct?

2 A. Correct.

3 Q. By this time, if you look at

4 Page 7, your suspicious order monitoring

5 program was computer Internet-based,

6 correct?

7 A. Computer. Not Internet.

8 Q. Okay. When you started, was

9 this a screen, on Page 7, that you would

10 be able to access for purposes of looking

11 into a particular order or customer?

12 A. Yes.

13 Q. What was this system called

14 that I'm looking at here?

15 A. It's part of JDE.

16 Q. Okay. So you would click on

17 a -- was there a particular icon you

18 click on for the suspicious order

19 monitoring system?

20 A. It's an option, a menu

21 option within the system.

22 Q. Within the JDE system?

23 A. Yes.

24 Q. All right. And so when you

Page 275

1 trained, you trained on how to use and

2 access this information, correct?

3 A. Correct.

4 Q. And then when you talked

5 about the standard operating procedures

6 and the enhanced system, in 2009, what --

7 according to Page 10 of this

8 presentation, what was enhanced and

9 changed in the policy included outlines

10 to specifications of a new S1 system and

11 the three components that make up the

12 entire system.

13 So the new system had new

14 components? Do you know what those three

15 components are?

16 MR. JONES: Objection.

17 Form.

18 BY MR. MIGLIORI:

19 Q. I'm just asking if you know.

20 If you don't, you don't.

21 A. Not three, no.

22 Q. Added out-of-practice

23 section outlining practices that can and

24 cannot purchase specific controlled

Page 276

1 substances.

2 So did this enhanced system

3 add a component of when a doctor cannot

4 order controlled substance based on the

5 practice area?

6 A. There were restrictions put

7 in place, yes.

8 Q. That was part of this

9 enhanced program that was launched at the

10 end of 2009, correct?

11 A. I'm not sure of the date on

12 that part of it.

13

14

15

16

17

18

19

20

21

22

23

24

Page 277

1

2

3

4

5 Was that a new process added

6 to the standard operating procedures for

7 new clients?

8 A. Around the same time period.

9 Q. Yes?

10 A. Around the same time, yes.

21

22 And that's consistent with

23 your understanding, correct?

24 A. Yes.

Q. The restrictions set up to


| | |
|---|--|
| <p style="text-align: right;">Page 278</p> <p>1 prevent accounts from ordering products 2 not normally used in their process. 3 Those restrictions were 4 established or set up in October of 2007; 5 does that sound right? 6 A. It says November 2007. 7 Q. I'm sorry, November. You're 8 correct. 9 A. Yep. 10 Q. Is that about when you 11 recall those restrictions being set up? 12 A. I don't recall. I wasn't 13 there at the time. 14 Q. Okay. In December of 2007, 15 that's when Schein received one of those 16 DEA Rannazzisi letters that we spoke of 17 earlier, correct? 18 A. Yes. 19 Q. In April of 2008, the 20 Product Normalization Project was 21 finished. 22 Do you know what that was? 23 A. No, I'm not sure what the 24 name -- what that means.</p> | <p style="text-align: right;">Page 280</p> <p>1 Q. In June of 2009, the 2 customer questionnaire implemented for 3 due diligence purposes for new onboarded 4 customers had been developed, correct? 5 A. Correct. 6 Q. Prior to that, there was no 7 customer questionnaire for new onboarded 8 clients, correct? 9 A. There wasn't a specific 10 questionnaire. We did seek other 11 means -- 12 Q. Right. 13 A. -- to obtain information. 14 Q. But it wasn't a standardized 15 questionnaire, correct? 16 A. Correct. 17 Q. In July of 2009, the 18 suspicious order monitoring SOP was 19 revised and finalized, that is, all of 20 the changes to the standard operating 21 procedures for SOM as it related to this 22 enhanced program had been revised and 23 approved and finalized, correct? 24 A. Yes.</p> |
| <p style="text-align: right;">Page 279</p> <p>1 Q. Do you know what the Gantt 2 chart was in April of 2008? 3 A. No. 4 Q. In March of 2009, the 5 suspicious order monitoring statistical 6 approach specs were finalized and 7 submitted. 8 Is that your recollection, 9 that, in September of 2009, the 10 statistical threshold setting 11 specifications were finalized? 12 A. You're talking about in 13 March, right? 14 Q. In March of 2009. 15 A. March of 2009. 16 It was prior to me coming on 17 board. 18 Q. So that would be consistent 19 with your understanding? 20 A. It would be consistent with 21 my understanding, yes. 22 Q. Because you came on board 23 about seven months later? 24 A. Yes.</p> | <p style="text-align: right;">Page 281</p> <p>1 Q. And then all of those 2 changes over that two-year period were 3 implemented, that is, put into effect, 4 beginning in October of 2009, right when 5 you got to verifications, correct? 6 A. Correct. 7 Q. Do you remember, in your 8 training, that you were actually there at 9 a time when this was just launching? 10 A. Yes. 11 Q. Were you, in fact, hired 12 into verification at this point because 13 of this program? 14 A. That, I don't know. 15 Q. Okay. Do you remember why 16 you wanted to move into verifications 17 after being in database? 18 A. It was offered to me. 19 Q. And do you recall who hired 20 you or recruited you into that 21 department? 22 A. Yes. 23 Q. Who was that? 24 A. It was my manager and</p> |

Page 282


1 director at the time.
2 Q. Named?
3 A. Lisa Madalon was my manager
4 and Bill Brandt was my director.
5 Q. So in October of 2009, the
6 system was tested and folks were trained.
7 So you were part of that
8 training, correct?
9 A. Yes.
10 Q. And October 5th of 2009, it
11 says, A new item setup process was
12 implemented.
13 What does that mean? Is
14 that standard operating procedure lingo?
15 A. Yeah. It was to add new
16 items into our SOM system.
17 Q. Okay. So, basically, all of
18 the things that we're talking about here
19 got -- went online; is that a fair way to
20 say it?
21 A. Yes.
22 Q. And then in October of 2009,
23 the system itself was completed.
24 So as of October 9th, 2009,

Page 283

1 this enhanced suspicious order monitoring
2 program was in place, correct?
3 A. Correct.
4 Q. All right.
5 - - -
6 (Whereupon, Exhibit
7 Schein-Abreu-17,
8 HSI-MDL-00404369-373, was marked
9 for identification.)
10 - - -
11 BY MR. MIGLIORI:

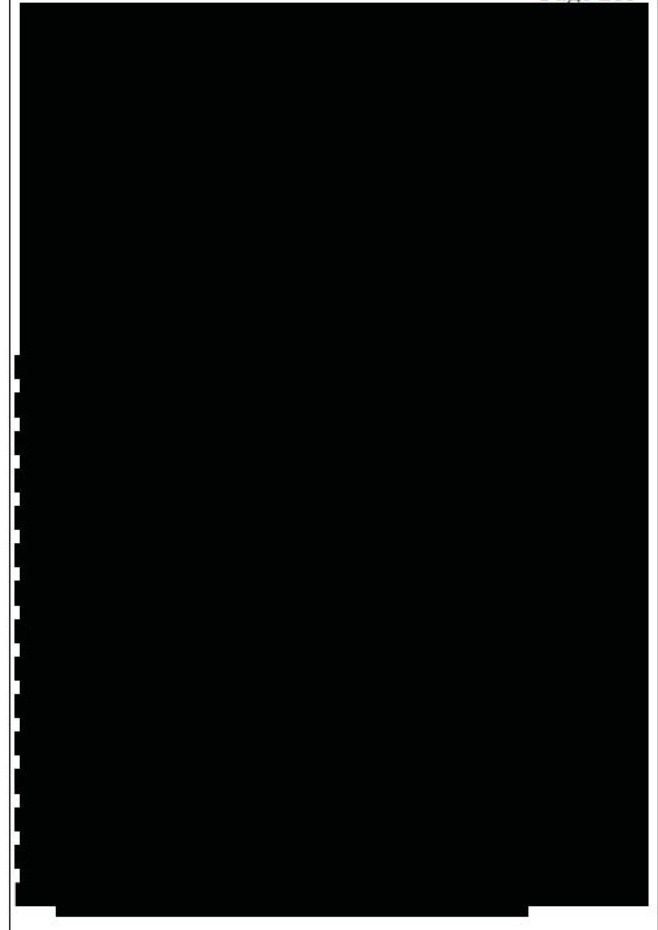


Page 284



4 MR. JONES: Objection.
5 Form.
6 Don, you said this document,
7 December 2009. Are you getting
8 that from the metadata, or is it
9 referenced?
10 MR. MIGLIORI: That's -- I
11 will tell you. That is metadata.
12 MR. JONES: It's metadata.
13 MR. MIGLIORI: Yes.
14 MR. JONES: Okay. Well,
15 I'll object to the document,
16 insofar as it's not dated and it's
17 entitled, Draft.
18 BY MR. MIGLIORI:
19 Q. Were you involved with any
20 of that process, close the loop on those
21 open items?
22 A. I'm not sure what they mean
23 by "control access codes." So that
24 doesn't ring a bell.

Page 285



Page 286

1 [REDACTED]
2 Did a compliance agreement
3 form get developed as a result of the
4 recommendations from Buzzeo?
5 MR. JONES: Objection to the
6 sidebar. Objection. Form.
7 THE WITNESS: We developed
8 and implemented the customer
9 questionnaire.
10 BY MR. MIGLIORI:
11 Q. Is that what the compliance
12 agreement is? Is that another name for
13 it?
14 MR. JONES: Objection.
15 Form. Lack of foundation. Calls
16 for speculation.
17 THE WITNESS: I'm not sure
18 if it's synonymous.
19 BY MR. MIGLIORI:
20 Q. That's all I'm asking.
21 A. Yeah.
22 Q. Have you ever heard that
23 term, "compliance agreement" form?
24 A. No.

Page 287

1 Q. But would you agree that the
2 questionnaire that you developed, in
3 fact, dealt with, quote, Customer's
4 previous history of using controlled
5 substances, office practice rules and
6 general practice expectations?
7 A. Yes.
8 Q. All right. So were you
9 involved in developing that
10 questionnaire?
11 A. No.
12 Q. Did you, in fact, implement
13 such a questionnaire after the launch of
14 the enhanced SOM?
15 A. Yes.
16 MR. JONES: Objection.
17 Form. Objection. Vague.
18 Just pause, please.
19 BY MR. MIGLIORI:
20 Q. Do you know when it started
21 that you started to use that
22 questionnaire?
23 A. It was right around the time
24 when I joined.

Page 288

1 Q. Do you know what a MedPro
2 inquiry is?
3 A. MedPro is a third-party
4 licensed provider that we use.
5 Q. Is that a way of verifying
6 licenses?
7 A. Yes.
8 Q. And according to this
9 recommendation, it appears that Schein
10 used MedPro in states that required
11 background checks but not in other
12 states.
13 Was that true, to your
14 experience, when you started in the
15 verification department?
16 MR. JONES: Objection.
17 Form. Lack of foundation. Calls
18 for speculation.
19 THE WITNESS: Yeah, I'm
20 not -- I'm not sure on that one.
21 BY MR. MIGLIORI:
22 Q. Fair enough.
23 It also says that, Henry
24 Schein, Inc., has conducted some on-site

Page 289

1 investigations for prospective customers.
2 However, the criteria for the level of
3 due diligence has not been documented in
4 any standard operating procedure or
5 memorandum.
6 Were you involved, at any
7 point, in developing an SOP or memorandum
8 for what level of due diligence is
9 required for onboarding a new customer?
10 MR. JONES: Object to the
11 sidebar. Objection to form.
12 THE WITNESS: In relation to
13 a site visit?
14 BY MR. MIGLIORI:
15 Q. In relation -- in
16 relationship to due diligence for new
17 customers.
18 Did you develop any written
19 documented SOP or memorandum for
20 onboarding new customers?
21 A. During this time period --
22 Q. At any time.
23 A. -- or at any time?
24 At any time, yes.

| | |
|---|--|
| <p style="text-align: right;">Page 290</p> <p>1 Q. When?</p> <p>2 A. I think it was 2012.</p> <p>3 Q. Okay. So three years after</p> <p>4 this, or so?</p> <p>5 A. Yes.</p> <p>6 MR. JONES: Object to the</p> <p>7 form.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. Another observation of</p> <p>10 Buzzeo is that lower-level staff is</p> <p>11 actively involved in clearing pended</p> <p>12 orders. Pended orders should be cleared</p> <p>13 by a management official.</p> <p>14 When you started in the</p> <p>15 verification department, were pended</p> <p>16 orders being cleared by non-management?</p> <p>17 MR. JONES: Objection --</p> <p>18 object to the sidebar. Objection.</p> <p>19 Form. Objection.</p> <p>20 Mischaracterizes the document.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Go ahead.</p> <p>23 A. Sorry, could you restate</p> <p>24 that one?</p> | <p style="text-align: right;">Page 292</p> <p>1 and the regulatory department appear to</p> <p>2 be poorly defined and reliant, to some</p> <p>3 extent, upon the judgment of individual</p> <p>4 employees regarding what types of</p> <p>5 situations should be referred to</p> <p>6 management for approval or forwarded to</p> <p>7 regulatory for investigation.</p> <p>8 Do you recall Buzzeo making</p> <p>9 any kind of observation like that when</p> <p>10 you were first hired on to the</p> <p>11 verification department in 2009?</p> <p>12 MR. JONES: Objection.</p> <p>13 Vague.</p> <p>14 THE WITNESS: No.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Do you have any reason to</p> <p>17 dispute that Buzzeo made that observation</p> <p>18 to Henry Schein in November of 2009?</p> <p>19 MR. JONES: Objection.</p> <p>20 Form. Mischaracterizes the</p> <p>21 document. Misleading.</p> <p>22 THE WITNESS: To the extent</p> <p>23 that it's in this memo or</p> <p>24 document, yes.</p> |
| <p style="text-align: right;">Page 291</p> <p>1 Q. Were staff in the</p> <p>2 verification department, or in</p> <p>3 regulatory, actively involved in clearing</p> <p>4 pended orders when you got to the</p> <p>5 verification department in 2009?</p> <p>6 A. It was a collaboration of</p> <p>7 multiple people within all the different</p> <p>8 teams.</p> <p>9 Q. Do you recall a</p> <p>10 recommendation by Buzzeo, at any point,</p> <p>11 saying that pended orders should be</p> <p>12 cleared by management, not by staff?</p> <p>13 A. No.</p> <p>14 Q. Does Henry Schein still</p> <p>15 allow staff to clear pended orders?</p> <p>16 A. All customer due diligence</p> <p>17 reviews are reviewed by a member of the</p> <p>18 management team.</p> <p>19 Q. The last comment is that,</p> <p>20 Henry Schein has clearly invested a great</p> <p>21 deal of time and energy in developing an</p> <p>22 adequate S1 system. However, the</p> <p>23 responsibilities of the customer service</p> <p>24 department, the verifications department</p> | <p style="text-align: right;">Page 293</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. Yes, you have a reason to</p> <p>3 dispute it; or, yes, it appears from the</p> <p>4 document that that was a recommendation?</p> <p>5 MR. JONES: Objection.</p> <p>6 Form.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. Go ahead.</p> <p>9 A. It appears from the</p> <p>10 document, yes, that it was a</p> <p>11 recommendation.</p> <p>12 Q. Okay.</p> <p>13 - - -</p> <p>14 (Whereupon, Exhibit</p> <p>15 Schein-Abreu-18, HSI-MDL-00072607,</p> <p>16 was marked for identification.)</p> <p>17 - - -</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. I'll show you Exhibit-18,</p> <p>20 please.</p> <p>21 Exhibit-18 was produced by</p> <p>22 Henry Schein. It is, again, by metadata</p> <p>23 only, because it's not dated otherwise,</p> <p>24 November 27th, 2013. And it's called,</p> |

Page 294

1 The Individual Opportunity/Issue
2 presented by Tina Steffanie-Oak.

3 In 2013, who was Tina
4 Steffanie-Oak in Henry Schein?

5 A. She was a former supervisor
6 or manager for regulatory.

7 Q. So she was in the compliance
8 department?

9 A. Regulatory, yes.

[REDACTED]

21 In 2013, was it true that
22 Henry Schein only had due diligence --
23 Know Your Customer due diligence for 40
24 percent of its customers?

Page 295

1 A. I'm not sure of the exact
2 number.

3 Q. Do you have any reason to
4 dispute that that was an observation of
5 Tina Steffanie-Oak in the regulatory
6 department?

7 A. No.

[REDACTED]

19 Q. That was true in 2013 and
20 it's true today, correct?

21 A. Correct.

22 Q. It's also true in 2006,
23 correct?

24 A. Correct.

Page 296

1 Q. In fact, it was true going
2 back to the enactment of the statute for
3 controlled substances in 1971, correct?

4 A. Yes.

[REDACTED]

11 First of all, in 2013, had
12 you been to any DEA conferences?

13 A. By that point, yeah, I
14 believe so. Yes.

15 Q. Do you think you ever met or
16 came across James Arnold?

17 A. I had seen him at
18 conferences, yes.

19 Q. These are quotes, now,
20 attributed to him by Tina Steffanie-Oak.

21 Do what you're supposed to
22 do and we won't have a problem.

23 Do you recall DEA ever
24 making that statement or representation

Page 297

1 to Henry Schein?

2 A. No.

3 Q. Tina Steffanie-Oak then says
4 that the DEA is quoted as saying, All you
5 need to do is to identify and report.
6 It's that simple.

7 Did you ever hear that from
8 anybody at the DEA?

9 A. Not personally, no.

10 Q. Legitimate medical need is
11 key.

12 Have you heard that
13 statement made about suspicious order
14 monitoring?

15 A. No.

16 Q. Would you agree with the
17 statement that legitimate medical need is
18 key to a good, robust, best practices
19 suspicious order monitoring program?

20 A. Yes.

21 Q. Volume will tell you a lot
22 about the customer.

23 Have you ever heard that
24 statement from anyone from the DEA?

| | |
|--|---|
| <p style="text-align: right;">Page 298</p> <p>1 A. Just that volume may be 2 indicative of a suspicious order. 3 Q. And you would agree that 4 volume may, in fact, be indicative of a 5 suspicious order, correct? 6 A. Yes. 7 Q. You should know what a 8 suspicious, more than the DEA would know 9 because you see all of the numbers and 10 deal with the customers every day. 11 Have you ever heard that 12 from the DEA? 13 A. No. 14 Q. Would you agree with me that 15 the suppliers of controlled substances 16 know the numbers of their orders and 17 transactions and deal with their 18 customers more than the DEA? 19 MR. JONES: Objection. 20 Form. 21 THE WITNESS: We report all 22 of our controlled substances 23 transactions to DEA. So I would 24 think they would know as much as</p> | <p style="text-align: right;">Page 300</p> <p>1 according to the DEA, include that the 2 customer had a valid DEA registration. 3 You agree that it was known 4 then, and it's known today, that mere 5 registration is not enough to clear a 6 suspicious order, correct? 7 A. Correct. 8 Q. She then said, We are only a 9 link -- one link in the supply chain. 10 That is, the DEA said to the 11 distributors, the fact that you're only 12 one link in the supply chain is not a 13 defense to failure to report suspicious 14 orders. 15 Is that a true statement? 16 MR. JONES: Object to the 17 form. Did you read it right, or 18 is that an accurate statement? 19 MR. MIGLIORI: I can say it 20 a little differently. 21 MR. JONES: Object to the 22 form to the extent it calls for a 23 legal conclusion. 24 BY MR. MIGLIORI:</p> |
| <p style="text-align: right;">Page 299</p> <p>1 we do. 2 BY MR. MIGLIORI: 3 Q. On the transactions? 4 A. On the transactions. 5 Q. What about with respect to 6 knowing the customer? 7 A. The customer themselves, I 8 would agree, yes, that we probably know 9 more. 10 Q. And the suspicious order 11 monitoring program, in order to be robust 12 and lawful, needs to have a strong Know 13 Your Customer component, correct? 14 MR. JONES: Objection. 15 Form. Vague. Calls for a legal 16 conclusion. 17 BY MR. MIGLIORI: 18 Q. Correct? 19 A. Yes. 20 Q. And then Tina Steffanie-Oak 21 said that the DEA represented to the 22 industry that was present at this 23 conference that, Unacceptable excuses for 24 failure to report a suspicious order,</p> | <p style="text-align: right;">Page 301</p> <p>1 Q. I think your counsel wants 2 me to get you to agree that's what it 3 says. 4 Can we agree it says that -- 5 she reported it's unacceptable, for 6 failure to report a suspicious order, to 7 say that we are only a link, one link in 8 the supply chain? 9 MR. JONES: Object to the 10 form. 11 BY MR. MIGLIORI: 12 Q. Is that what it says? 13 A. Yes. 14 Q. You'll agree, as the person 15 with knowledge of Henry Schein's 16 suspicious order monitoring policies and 17 procedures, that that is not a viable 18 defense to reporting or failing to report 19 a suspicious order, that you're just one 20 of the actors in the supply chain, 21 correct? 22 MR. JONES: Objection. 23 Form. Objection to the extent it 24 calls for a legal conclusion.</p> |

Page 302

1 BY MR. MIGLIORI:
2 Q. You agree with that, right?
3 A. Sorry, can you restate that?
4 Q. Yes.
5 You'll agree that, as a
6 person with the knowledge of Henry
7 Schein's policies and procedures on
8 suspicious order monitoring, that it is
9 not a defense, for failure to report a
10 suspicious order, that Schein is only one
11 link in the supply chain --
12 MR. JONES: Same objection.
13 BY MR. MIGLIORI:
14 Q. -- correct?
15 MR. JONES: Sorry.
16 THE WITNESS: Yes.
17 BY MR. MIGLIORI:
18 Q. It's not a defense to
19 failure to report a suspicious order that
20 you can't look at every customer's order,
21 correct?
22 MR. JONES: Object to the
23 form. Calls for a legal
24 conclusion.

Page 303

1 THE WITNESS: Yes.
2 BY MR. MIGLIORI:
3 Q. Yes, it's correct?
4 A. Yes.
5 Q. It's not a defense to
6 failure to report a suspicious order that
7 Schein is not responsible for what a
8 customer does with the drugs.
9 You agree with that
10 statement, correct?
11 MR. JONES: Objection.
12 Form. Calls for a legal
13 conclusion.
14 BY MR. MIGLIORI:
15 Q. Do you agree with that?
16 A. Can you restate it? I'm
17 sorry.
18 Q. Yes.
19 You would agree with Tina
20 Steffanie-Oak -- strike that.
21 You'll agree that it is not
22 a defense for Henry Schein, in failing to
23 report a suspicious order, that Schein
24 would represent that it's not responsible

Page 304

1 for what its customers do with the
2 drugs --
3 MR. JONES: Object to the
4 form.
5 BY MR. MIGLIORI:
6 Q. -- correct?
7 MR. JONES: Object to the
8 form. Calls for a legal
9 conclusion. Outside the scope.
10 THE WITNESS: I think to an
11 extent, yes.
12 BY MR. MIGLIORI:
13 Q. All right. Well, by itself,
14 once the drugs leave -- once controlled
15 substances leave Henry Schein, the
16 obligation of Schein to make sure that an
17 order, if suspicious, be reported,
18 doesn't absolve Schein of future
19 responsibility, correct?
20 MR. JONES: Objection.
21 Form. Calls for legal conclusion.
22 Outside the scope.
23 BY MR. MIGLIORI:
24 Q. Is that correct?

Page 305

1 A. Yes.
2 Q. And it's not a defense for
3 Schein to say, in failing to report a
4 suspicious order, that it's not a doctor
5 or pharmacist, correct?
6 MR. JONES: Objection.
7 Form. Outside the scope. Calls
8 for legal conclusion.
9 BY MR. MIGLIORI:
10 Q. Is that correct?
11 A. Yes.
12 MR. JONES: Don, if you're
13 getting ready to move to another
14 exhibit, can we take a break?
15 MR. MIGLIORI: Yeah. Let me
16 just make sure I'm done with this
17 one, and then I'll be happy to.
18 Just a second.
19 Let me just finish this
20 document, and then we'll break.
21 MR. JONES: Sure.
22 MR. MIGLIORI: Thank you.
23 BY MR. MIGLIORI:
24 [REDACTED]

Page 306

[REDACTED]

17 You are aware that the
 18 failure of the DEA registrant to maintain
 19 effective controls against diversion can
 20 result in the registration being revoked
 21 by the DEA, aren't you?
 22 MR. JONES: Objection.
 23 Form. Outside the scope. Calls
 24 for speculation.

Page 307

1 BY MR. MIGLIORI:
 2 Q. Correct?
 3 A. Yes.
 4 Q. In fact, that's the whole
 5 point of a suspicious order monitoring
 6 program, to effectuate effective controls
 7 against diversion, correct?
 8 MR. JONES: Objection.
 9 Form. Calls for a legal
 10 conclusion.
 11 THE WITNESS: Yes.
 12 BY MR. MIGLIORI:
 13 Q. What's that?
 14 A. Yes.
 15 Q. Any distributor who is
 16 selling drugs that are being dispensed
 17 outside the course of professional
 18 practice must stop immediately.
 19 That is true in 2013,
 20 correct?
 21 A. Yes.
 22 Q. And that policy was
 23 implemented by Schein in its suspicious
 24 order monitoring program, I think you

Page 308

1 said, some time in -- the end of 2009
 2 with this enhanced SOM program, correct?
 3 A. As part of it, yes.
 4 Q. The DEA cannot guarantee
 5 that past failure to maintain effective
 6 controls against diversion will not
 7 result in action against a distributor.
 8 Strike it. I don't need to
 9 ask you about that.

[REDACTED]

19 Were you part of an effort
 20 around this time frame of 2013, November
 21 of 2013, to develop a plan to get due
 22 diligence information on all Henry Schein
 23 customers?
 24 A. Yes.

Page 309

1 Q. And what role did you play,
 2 beginning in November of 2013, to develop
 3 and execute a plan to get due diligence
 4 on all of Henry Schein's customers?
 5 A. So we helped with flagging
 6 the system to ensure that customer orders
 7 were pended to request due diligence.
 8 Q. So, effectively, if 60
 9 percent of the customers had no due
 10 diligence at all, did this program pend
 11 all of that 60 percent until the due
 12 diligence could be collected?
 13 A. It was done in a series of
 14 steps.
 15 Q. And when you pended a
 16 customer that did not have any due
 17 diligence in the file, I'm talking about
 18 the 60 percent group right now, did those
 19 pended customers get reported to DEA as
 20 pended?
 21 A. In 2013?
 22 Q. And thereafter.
 23 A. They would have up until
 24 April of 2015, yes.

Page 310

1 Q. So this program of pending
2 the customer and then obtaining due
3 diligence, how long did it take to
4 execute that plan?
5 A. It took a number of years.
6 Q. Was it completed by April of
7 '15, or did it continue after that as
8 well?
9 A. It continued after that.
10 Q. And is it still going on
11 today? Are you still catching up on the
12 due diligence project referred to in this
13 exhibit?
14 A. No.
15 Q. Do you recall when it may
16 have been final, that is, when you
17 finally caught up?
18 A. I believe it was some time
19 last year, in 2017.
20 Q. So it's fair to say that
21 Henry Schein first had complete due
22 diligence files on all of its customers
23 some time in 2017?
24 A. Yes.

Page 311

1 Q. Was the process different
2 for the 40 percent of the customers that
3 had varying levels of due diligence in
4 their files? Was there a different plan
5 for those?
6 A. When you say "was the
7 process different," what do you mean?
8 Q. So in -- earlier in this
9 presentation she points out that 40
10 percent of the then-existing customers in
11 November of 2013, 40 percent has varying
12 degrees of due diligence. Files are not
13 consistent.
14 Do you see that?
15 A. Yes.
16 Q. And you have no reason to
17 refute that, right?
18 A. No.
19 Q. You then talked about how
20 you worked on a program for the 60
21 percent that had no due diligence.
22 You worked on a program that
23 went from the end of 2013 through 2017 to
24 get up to date on Know Your Customer

Page 312

1 requirements for all customers, correct?
2 A. Correct.
3 Q. Did you -- for the 40
4 percent that had varying degrees of due
5 diligence, was there a program put in
6 place to get all of those files more
7 consistent or complete?
8 MR. JONES: Object to form.
9 Vague.
10 THE WITNESS: As customers
11 were flagged by our monitoring
12 system, we would update the
13 customer due diligence, yes.
14 BY MR. MIGLIORI:
15 Q. But there wasn't a program
16 that started some time after this
17 November 2013 presentation that
18 systematically went through this 40
19 percent of customer files to upgrade
20 their Know Your Customer due diligence
21 files, correct?
22 A. It was based on our
23 monitoring system.
24 Q. Only if it got tripped by a

Page 313

1 threshold?
2 A. By anything in the SOMS
3 system, yes.
4 Q. So if nothing tripped, none
5 of those files were reviewed for updated
6 Know Your Customer review?
7 A. They may have been revisited
8 over time. But the immediate was the
9 pend, yes.
10
11
12
13
14 Were more people added to
15 the process when you started this project
16 of getting complete due diligence Know
17 Your Customer files for your customers?
18 A. Yes.
19 Q. Do you know how many people
20 were added?
21 A. From -- I'm not sure about
22 from the regulatory team.
23 But, yeah, my team grew
24 significantly in verifications.

| | |
|---|--|
| <p style="text-align: right;">Page 314</p> <p>1 Q. So from November of 2013 to 2 2017, how big did your verification 3 department grow? 4 A. We added, I would say, at 5 least ten people. 6 Q. And you don't know how many 7 regulatory added? 8 A. I'm not sure. It was a 9 couple. I'm not sure of the exact 10 number. 11 Q. And the purpose of adding 12 all those folks was to get up to date on 13 the Know Your Customer due diligence 14 project, correct? 15 A. Correct. 16 MR. MIGLIORI: All right. 17 Why don't we take a break here? 18 VIDEO TECHNICIAN: The time 19 is now 2:46 p.m. We're going off 20 the record. 21 - - - 22 (Whereupon, a brief recess 23 was taken.) 24 - - -</p> | <p style="text-align: right;">Page 316</p> <p>1 customers, new and existing, so that 2 those due diligence files at Schein would 3 be complete, correct? 4 A. Correct. 5 Q. I want to show you what's 6 been marked as Exhibit Number 19. 7 This is a memorandum and 8 opinion -- memorandum opinion and order 9 relative to a Schein customer named Brian 10 D. Heim, MD. 11 Are you familiar with Dr. 12 Heim? 13 A. No. 14 Q. All right. This is an 15 opinion of a court. It actually happens 16 to be the same court that this case is 17 pending in, in Ohio. I want to direct 18 your attention to Page 4. 19 On Page 4, there are, under 20 Section B, what are referenced as 21 undisputed facts. It's referring to the 22 defendant, Dr. Heim, registered under the 23 Act, that is, a DEA registrant, as a 24 medical practitioner and was authorized</p> |
| <p style="text-align: right;">Page 315</p> <p>1 VIDEO TECHNICIAN: The time 2 is now 3:09 p.m. We are back on 3 the record. 4 - - - 5 (Whereupon, Exhibit 6 Schein-Abreu-19, Memorandum 7 Opinion and Order; USA v Heim, was 8 marked for identification.) 9 - - - 10 BY MR. MIGLIORI: 11 Q. We were talking before the 12 break about due diligence and Know Your 13 Customer requirements. 14 Do you recall that? 15 A. Yes. 16 Q. And due diligence and Know 17 Your Customer requirements are not just 18 for the onboarding of new clients, that's 19 an ongoing responsibility with respect to 20 all clients, correct? 21 A. Correct. 22 Q. And the project that you 23 undertook from 2013 to 2017 was to update 24 all due diligence files for all types of</p> | <p style="text-align: right;">Page 317</p> <p>1 to handle controlled substances, 2 Schedules II, III, IV and V. His 3 registered location was 3562 Ridge Park 4 Drive, Suite A, Akron, Ohio. 5 Do you recall whether Dr. 6 Heim may have been one of the three 7 pended customers that you found in 8 looking at Summit County? 9 A. I don't recall. 10 Q. I'm going to represent to 11 you that Akron, Ohio is in Summit County, 12 okay. 13 And I will show you later 14 here, but I represent to you that this is 15 one of the Schein clients. 16 In 1998, Heim entered guilty 17 pleas to 24 felony counts of theft of 18 drugs and 21 felony counts of illegal 19 processing of drug documents. His 20 medical license was suspended and he was 21 given treatment in lieu of conviction. 22 On June 6, 2012, Heim was 23 arraigned in Summit County Court of 24 Common Pleas on seven counts of</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 318</p> <p>1 aggravated trafficking in drugs and one 2 count of tampering with evidence. The 3 drug charges were eventually dropped in 4 return for defendant's guilty plea to one 5 count of obstruction of justice. He also 6 agreed to surrender his medical license 7 and his DEA registration as part of his 8 plea. As a result, the defendant is no 9 longer permitted to dispense or prescribe 10 Schedule II through IV drugs. 11 On July 5, 2012, Brinks 12 checked with the DEA Automation of 13 Reports and Consolidated Order System, 14 ARCOS, which is a DEA database used to 15 capture the activity of controlled 16 substances from a point of manufacture 17 and/or distribution to the point of sale 18 to the retail level registrant. This 19 check of ARCOS revealed that the 20 defendant was purchasing extraordinarily 21 large amounts of hydrocodone APAP 22 tablets, hydrocodone and acetaminophen, 23 from the pharmaceutical wholesaler Henry 24 Schein, Inc.</p> | <p style="text-align: right;">Page 320</p> <p>1 verification department expanded to 2 develop the Know Your Customer database 3 knowledge of your clients. So that's 4 within your department, correct, that you 5 conduct due diligence of your customers, 6 correct? 7 MR. JONES: Object to the 8 form. 9 BY MR. MIGLIORI: 10 Q. Correct? 11 A. Yes. 12 Q. And certainly criminal 13 background relative to drug trafficking 14 felonies would be a relevant factor in 15 your due diligence analysis, correct? 16 A. Yes. 17 Q. And that would include, 18 going back to Page 4, the 1998 entering 19 of guilty pleas for 24 felony counts of 20 theft in drugs, that would be something 21 that you would want to know in a robust 22 due diligence program to know your 23 customer at Henry Schein, correct? 24 MR. JONES: Object to the</p> |
| <p style="text-align: right;">Page 319</p> <p>1 Now, based on these 2 undisputed facts in this finding -- and 3 Schein cooperated with this, just so 4 we're clear on that, based on these 5 findings, Schein would have, when it 6 learned of the -- certainly of the 7 indictment on seven counts of aggravated 8 trafficking in drugs and one count of 9 tampering with evidence, upon learning 10 that, that would be cause enough to not 11 just pend but to discontinue or cancel 12 the relationship with this doctor, 13 correct? 14 MR. JONES: Object to the 15 form. Object to the sidebar. 16 Outside the scope. Calls for 17 speculation. 18 THE WITNESS: I'm not sure 19 on that one. 20 BY MR. MIGLIORI: 21 Q. If you -- and so I'm going 22 back to your Know Your Customer due 23 diligence operations. 24 You told me that the</p> | <p style="text-align: right;">Page 321</p> <p>1 form. Vague. 2 BY MR. MIGLIORI: 3 Q. You would want to know about 4 drug trafficking guilty pleas, wouldn't 5 you, in due diligence? 6 A. Yes. 7 Q. And the fact that there were 8 in 1998, and that the doctor lost his 9 license, temporarily, to practice 10 medicine as a result of that is something 11 that is a relevant piece of information 12 for the Henry Schein Know Your Customer 13 due diligence analysis, correct? 14 MR. JONES: Object. Object 15 to the question. Did you say 16 1998? 17 MR. MIGLIORI: I'm talking, 18 first, about the 1998 19 convictions -- pleas, guilty 20 pleas. 21 BY MR. MIGLIORI: 22 Q. Correct? 23 A. Yes. 24 Q. And so if this doctor came</p> |

Page 322

1 back to practice after 1998 and started
 2 to prescribe drugs and started to buy
 3 drugs, as is represented here from Henry
 4 Schein, if you look at the footnote on
 5 Page 6, it says, On July 12th Henry
 6 Schein, Inc. provided a summary of
 7 defendant's purchases of controlled
 8 substances between January of 2011 and
 9 July of 2012. And it's attached as
 10 Exhibit B. And I'll show that to you in
 11 a minute.

12 But for Henry Schein to
 13 start supplying controlled substances to
 14 this doctor as of January 1st, 2011, it
 15 would have conducted new customer due
 16 diligence on that customer, correct?

17 A. Yes.

18 Q. And that information in 2011
 19 should still be in the system, because
 20 it's after the 2009 purge, correct?

21 A. I would think so, yes.


22 Q. Okay. So let me show you
 23 Exhibit Number 20.
 24 - - -

Page 323


1 (Whereupon, Exhibit
 2 Schein-Abreu-20,
 3 HSI-MDL-00001198-210, was marked
 4 for identification.)
 5 - - -

6 MR. MIGLIORI: And for my
 7 kind brother at the end of the
 8 table. Exhibit-20 has a Bates
 9 number of HSI-MDL1198.

10 MR. ASFENDIS: Appreciate
 11 it.

12 MR. MIGLIORI: You don't
 13 trust me, you want to see it.
 14 BY MR. MIGLIORI:
 15 
 16
 17
 18
 19
 20
 21
 22
 23
 24

Page 324

1 
 2
 3
 4
 5
 6
 7
 8
 9

10 A. Yes.

11 Q. Is this the -- is this a new
 12 customer questionnaire, or is this a
 13 different kind of questionnaire?

14 A. This was the -- yeah, the
 15 standard questionnaire.

16 Q. For a new client or for a
 17 suspicious order, or for both?

18 A. For both.

19 Q. All right. So if you
 20 brought on a new client, you would send
 21 this form out, and that would be part of
 22 your new client due diligence in 2011;
 23 but it would also be the same
 24 questionnaire you would send out if you

Page 325

1 had an order that you had pended,
 2 correct?

3 A. Correct.

4 Q. All right. And so we can go
 5 through it.

6 But you wrote to him at that
 7 address. And the questionnaire just
 8 asks, Are you a large group or solo
 9 practice? He said, Solo practice.

10 What's your specialty? He wrote, Family
 11 medicine.

12 Correct?

13 A. Yes.

14 Q. Is the practice owned by a
 15 licensed practitioner? He checked off
 16 yes. The address is an office address,
 17 not a home address.

18 That's an important Know
 19 Your Customer distinction, correct?

20 A. Yes.

21 Q. Because as of this time, it
 22 was not the standard operating procedure
 23 to send controlled substances to a
 24 doctor's home address, correct?

Page 326

1 A. No, we still could send
2 controlled substances to a home address.
3 Q. Is there any point at which
4 that stopped?
5 A. No. We have plenty of
6 doctors who have home offices.
7 Q. Okay. It gives phone
8 numbers, hours of operation, whether he
9 accepts insurances.

[REDACTED]

17 So these answers are, on
18 their face, responsive, right? They're
19 not deficient, from a verification due
20 diligence standpoint, correct?
21 MR. JONES: Objection.
22 Form. Vague.
23 BY MR. MIGLIORI:
24 Q. You're here to talk about

Page 327

1 your company's suspicious order
2 monitoring program.
3 This form is part of that
4 program, correct?
5 A. Yes.
6 Q. This form is sent out for
7 both the new customer and for concerns
8 about suspicious orders, correct?
9 A. Correct.
10 Q. Can you tell, by looking at
11 the document, whether this was sent out
12 as a new customer request or as a
13 suspicious order request?
14 A. No.
15 Q. All right. If you go
16 forward, there's another license -- on
17 Page 1207, there's another license
18 verification from Ohio.
19 Again, that's done by your
20 department, correct?
21 A. Yeah, it looks that way.
22 Yes.
23 Q. And it looks like his
24 license was reissued, based on this page,

Page 328

1 in August of 2007; first issue date.
2 Do you see that?
3 A. Yes.
4 Q. So based on the
5 indictment -- or the opinion and order of
6 the court, the loss of license would have
7 ended around August of 2007.
8 Am I reading this type of
9 document correctly?
10 A. I'm not --
11 MR. JONES: Objection.
12 Vague.
13 BY MR. MIGLIORI:
14 Q. You can tell me --
15 A. Yeah, I'm not sure.
16 Q. All right. If you turn to
17 the page that's 1206 in your due
18 diligence file, it asks for, as an answer
19 to a question, information about
20 testosterone. It's Question Number 17.
21 And it's signed by the doctor.
22 Is this document a different
23 questionnaire? It starts on Page 1205.
24 This one is dated August 23rd, 2012.

Page 329

1 Same doctor, same address. Similar
2 questions on the front page, but it seems
3 to be a little bit more extensive.
4 Is this a different type of
5 follow-up question? It's one year later.
6 A. It's just a -- it's just a
7 revised version.
8 Q. Okay. If you're sending
9 this out, though, you can't tell, by
10 looking at it, whether you're sending it
11 out because of a suspicious order issue
12 or just an update?
13 A. That's right.
14 Q. Let's go to Page 1204. It
15 says, Supplemental data narrative
16 customers.
17 This form that we're looking
18 at here, is this a -- can you tell from
19 looking at it where this information
20 comes from? Is this from the PDE system?
21 A. JDE.
22 Q. JDE. I'll never get it
23 right.
24 The JDE system?

Page 330

1 A. Yes, it is.

2 Q. And then there's a reference
3 here, it says, August 23rd, 2012, as per
4 Shaun to EML.

5 Who is that?

6 A. I think that's to e-mail.

7 Q. Oh, to e-mail.

8 The doctor, a new quest
9 sent -- and then it gives a date.

10 So a new questionnaire was
11 sent out in August of 2012 by your
12 instruction? Is that you?

13 A. I assume so. I don't
14 recall, but --

15 Q. Do you know why? Can you
16 tell, by looking at this narrative, why
17 you sent out a new form?

18 A. No.

19 Q. August 23rd, 2012, Received
20 completed questionnaire, placed in bin to
21 be approved.

22 And then it says on August
23 25th, Gave to Shaun, TH.

24 Who would TH be? Is that a

Page 331

1 person?

2 A. Probably the initials of
3 somebody on my team.

4 Q. Can you tell whether or not
5 the form was approved, by looking at
6 this?

7 A. Not based on this page, no.

[REDACTED]

17 What does that mean, do you
18 know?

19 A. That's referring to his
20 terminal distributor of dangerous drugs
21 license, it's a Category III.

22 Q. So what does that mean? Is
23 it a verification that he has one?

24 A. Yes.

Page 332

1 Q. So there's nothing negative
2 to report in that, it's just that it's
3 been verified or -- that he's got a Cat
4 III license?

5 A. Correct.

6 Q. And is that for controlled
7 substances?

8 A. Among other things, yes.
9 But it gives the authority for it.

10 Q. If you go to Page 1201, I
11 can't tell if there's a date on this. It
12 says, Effective date 08/17/11.

13 So is that August 17th of
14 '11? On the top right corner, Page 1201.
15 When I'm looking at the pages, I'm
16 looking at the bottom right.

17 A. Yeah, down here. 1201.

18 Yeah, 8/17/11. Yes, that
19 looks like it. Yeah.

[REDACTED]

Page 333

[REDACTED]

18 What does that mean?

19 A. I'm honestly not sure.

20 Q. And then the top page of
21 this exhibit, Number-20, is sort of a, I
22 guess, a summary.

23 Starting from the bottom, I
24 guess, chronologically, June 3rd of '11.

| | |
|--|---|
| <p style="text-align: right;">Page 334</p> <p>1 W/MP.</p> <p>2 What is that? Does that</p> <p>3 mean anything to you?</p> <p>4 A. It's MP was abbreviated for</p> <p>5 MedPro.</p> <p>6 Q. So that means that the</p> <p>7 license was verified in June of 2011,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. So if the license was</p> <p>11 verified any time prior to that, it</p> <p>12 should appear here, correct?</p> <p>13 MR. JONES: Objection to</p> <p>14 form.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. I didn't produce this</p> <p>17 document. I'm just trying to understand</p> <p>18 it.</p> <p>19 I don't know if there's a</p> <p>20 page in your system where all of these</p> <p>21 things are indexed or catalogued, like</p> <p>22 this page.</p> <p>23 But according to this page,</p> <p>24 the license seems to have been verified</p> | <p style="text-align: right;">Page 336</p> <p>1 not sure now.</p> <p>2 Q. What kind of information</p> <p>3 would you get from DEA?</p> <p>4 A. It was a list of active</p> <p>5 registrations.</p> <p>6 Q. Okay. So that's just</p> <p>7 verifying that he's actively registered</p> <p>8 with DEA?</p> <p>9 A. Uh-huh, yes.</p> <p>10 Q. Yes?</p> <p>11 A. Yes.</p> <p>12 Q. That's not a report of any</p> <p>13 Know Your Customer elements, past</p> <p>14 convictions, all that kind of stuff;</p> <p>15 that's purely a license verification?</p> <p>16 A. Yes.</p> <p>17 Q. All right. August 17th,</p> <p>18 2011, Received HS letter, approved.</p> <p>19 So is that the initial</p> <p>20 onboarding client letter?</p> <p>21 A. Yeah. HS letter was kind of</p> <p>22 team jargon for the questionnaire.</p> <p>23 Q. Okay. On October of 2011,</p> <p>24 Within scope, HS letter on file.</p> |
| <p style="text-align: right;">Page 335</p> <p>1 on June 3rd, 2011 from MedPro.</p> <p>2 Is that a reasonable</p> <p>3 assumption from this page?</p> <p>4 A. Yes.</p> <p>5 Q. It seems that on June 3rd of</p> <p>6 2011, it says, WIV.</p> <p>7 What kind of license would</p> <p>8 that be, if a license?</p> <p>9 A. That would have been the</p> <p>10 TDDD.</p> <p>11 Q. Which is what?</p> <p>12 A. The terminal distributor of</p> <p>13 dangerous drugs license.</p> <p>14 Q. Okay. We saw that document.</p> <p>15 Okay.</p> <p>16 On June 10th of 2011, it</p> <p>17 says, TP web.</p> <p>18 What does that mean?</p> <p>19 A. So we used to receive DEA</p> <p>20 information via a tape reel.</p> <p>21 Q. So you got some information</p> <p>22 from tape.</p> <p>23 Is that stored somewhere?</p> <p>24 A. We used to back it up. I'm</p> | <p style="text-align: right;">Page 337</p> <p>1 So is that a pend that is</p> <p>2 overridden because it's within the scope</p> <p>3 of his practice as reflected in his HS</p> <p>4 letter?</p> <p>5 A. So it was likely a pended</p> <p>6 order that they consulted the</p> <p>7 questionnaire on.</p> <p>8 Q. Okay. So an order in</p> <p>9 October of 2011 gets pended, somebody in</p> <p>10 verification goes into the system here to</p> <p>11 look at the HS letter and makes a</p> <p>12 decision to approve or not approve the</p> <p>13 order; is that how it works?</p> <p>14 A. That's right.</p> <p>15 Q. And can you tell, from</p> <p>16 looking at this, who would have approved</p> <p>17 that? Are those initials on the side, TH</p> <p>18 Harrington?</p> <p>19 A. Yes. That's the user ID of</p> <p>20 the person.</p> <p>21 Q. Who is that person that --</p> <p>22 I'm sorry, for the -- for the within</p> <p>23 scope was P. Hall.</p> <p>24 Do you know who that is?</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 338</p> <p>1 A. Patti Hall.</p> <p>2 Q. Is Patti Hall in</p> <p>3 verifications or in regulatory?</p> <p>4 A. In -- she was in</p> <p>5 verifications.</p> <p>6 Q. So if I understand this</p> <p>7 correctly, there was an order in October</p> <p>8 of 2011. It was pended. And Patti Hall</p> <p>9 would have gone to this due diligence</p> <p>10 file, read the HS letter on file, and</p> <p>11 then made a decision about whether to</p> <p>12 supply, whether to ship?</p> <p>13 A. Yes.</p> <p>14 Q. And can you tell here</p> <p>15 whether or not that was shipped?</p> <p>16 A. No.</p> <p>17 Q. Would it say here, rejected?</p> <p>18 Would there be a letter if it were</p> <p>19 cancelled?</p> <p>20 A. No.</p> <p>21 Q. Would a suspicious order get</p> <p>22 put into the due diligence file?</p> <p>23 A. No.</p> <p>24 It looks like -- it looks</p> | <p style="text-align: right;">Page 340</p> <p>1 A. Yes.</p> <p>2 Q. What does that entry mean?</p> <p>3 Does that mean that there was another</p> <p>4 pended order, or does that mean that</p> <p>5 there was something else that caused you</p> <p>6 to look for the HS letter?</p> <p>7 A. That was a scan of the</p> <p>8 actual document.</p> <p>9 Q. Okay. So based on just that</p> <p>10 information, anyway, there are no --</p> <p>11 there seems to be an indication of two</p> <p>12 pended orders and no cancelled orders,</p> <p>13 correct?</p> <p>14 A. Based on these notes, I</p> <p>15 would say yes.</p> <p>16 Q. All right. I want to take</p> <p>17 you back to Exhibit Number 19, because I</p> <p>18 want to go through the timing again with</p> <p>19 both of these documents.</p> <p>20 On June 6th, 2012 --</p> <p>21 A. Sorry, which page are you</p> <p>22 on?</p> <p>23 Q. This is Page 5 of the</p> <p>24 opinion.</p> |
| <p style="text-align: right;">Page 339</p> <p>1 like it was released, based on the note.</p> <p>2 Q. "Released" meaning that the</p> <p>3 order was sent to the doctor?</p> <p>4 A. Yes.</p> <p>5 Q. In January of 2012, it says,</p> <p>6 IVS, and then a number.</p> <p>7 Is that another verification</p> <p>8 of the license?</p> <p>9 A. Yes, for the TDDD.</p> <p>10 Q. And then there's another --</p> <p>11 I'm sorry, March 2011, '12, Within scope,</p> <p>12 letter HS.</p> <p>13 It seems like Patti Hall</p> <p>14 again had a pended order that was</p> <p>15 researched. The letter was in the file,</p> <p>16 the HS letter was in the file. And if</p> <p>17 it's similar to the prior entry for her,</p> <p>18 it looks like that was released to the</p> <p>19 client as well, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And then on August 30th of</p> <p>22 2012, it just says, HS on file. And it</p> <p>23 refers to you, Shaun Abreu.</p> <p>24 Do you see that?</p> | <p style="text-align: right;">Page 341</p> <p>1 A. Okay.</p> <p>2 Q. On June 6th of 2012, Dr.</p> <p>3 Heim was arraigned in Summit County Court</p> <p>4 of Common Pleas on seven counts of</p> <p>5 aggravated trafficking of drugs and one</p> <p>6 count of tampering with evidence.</p> <p>7 Is that arraignment</p> <p>8 something that would appear in this due</p> <p>9 diligence file if it were known to the</p> <p>10 company at the time?</p> <p>11 A. Would a copy of the</p> <p>12 arraignment?</p> <p>13 Q. Or concern about the client,</p> <p>14 that is, the due diligence performed to</p> <p>15 know this client, would that have somehow</p> <p>16 appeared in the due diligence file if it</p> <p>17 were known to the company?</p> <p>18 And I'm not intimating that</p> <p>19 it was known to the company.</p> <p>20 A. If we had a copy of the</p> <p>21 license that we had pulled and it</p> <p>22 reflected it, then it would probably be</p> <p>23 in the file.</p> <p>24 Q. All right. There is an</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 342</p> <p>1 exhibit to this order that I referenced 2 that Schein provided to the United States 3 government as Exhibit B to what it filed 4 as a motion for summary judgment. I'm 5 going to mark it as Exhibit-21. 6 - - - 7 (Whereupon, Exhibit 8 Schein-Abreu-21, HSI Shipped Order 9 by DEA - Run Date 7/11/12, was 10 marked for identification.) 11 - - - 12 BY MR. MIGLIORI: 13 Q. These are the orders that 14 Schein sent to Dr. Heim over the course 15 of its relationship with Dr. Heim. 16 Now, Exhibit-21 is a 17 printout from Schein that the government 18 used in its prosecution of Dr. Heim. 19 Is this in a form that is 20 known to you, that is, in a Henry Schein 21 format? 22 A. Yes. 23 Q. What would you call this 24 printout?</p> | <p style="text-align: right;">Page 344</p> <p>1 it corresponds. 2 Q. Okay. So if we look at the 3 dates that Patti Hall, in Exhibit-20, 4 that Patti Hall cleared a pending order, 5 the first one is October 24th, 2011, 6 correct? 7 A. Yes. 8 Q. If we go to October 24th, 9 2011, there is an order that says, 10 Quantity of 3. 11 Do you see that? 12 A. For testosterone, yes. 13 Q. And hydrocodone, a quantity 14 of 1. 15 Do you see that? 16 A. Yes. 17 Q. And that was an order that 18 was cleared by Patti Hall, even though it 19 was tagged by the computer as pending? 20 A. Yes. 21 Q. What is the deviation that 22 would have been tagged by the computer in 23 looking at that order? 24 A. I couldn't say, without</p> |
| <p style="text-align: right;">Page 343</p> <p>1 A. We actually -- we refer to 2 it by the report number on the top left, 3 the ORDB81 report. 4 Q. And so if you want to know 5 an individual doctor's ordering history, 6 this is something that you would look to? 7 A. For controlled substances, 8 yes. 9 Q. All right. And in reading 10 this, can you tell me the dates, based on 11 this, that you supplied controlled 12 substances to Dr. Heim, that is, the 13 range of dates? You don't have to give 14 me each one. 15 A. The first order was June 16 10th, 2011. 17 Q. Okay. And then? 18 A. Through the last order of 19 July 10th, 2012. 20 Q. Okay. So is there any way 21 to look at these orders and tell me which 22 two of these orders were pending? Is 23 there any way to read this information? 24 A. Only based on the date, if</p> | <p style="text-align: right;">Page 345</p> <p>1 seeing it. 2 Q. So the two substances being 3 ordered are testosterone and hydrocodone, 4 correct? 5 A. Yes. 6 Q. What is the line that says, 7 LNE? 8 A. Oh, the column on the top 9 right, you mean? 10 Q. Correct. 11 A. That's the line number on 12 the order. 13 Q. So when it says, 6 and 7, 14 what does that mean? 15 A. So if you have an order that 16 contains ten different products, it's the 17 sequence in which the lines were keyed 18 for the order. 19 Q. Is there anything about the 20 line order and that sequence that is part 21 of the algorithm, in 2011, for suspicious 22 orders or pending orders? 23 A. I don't believe so, no. 24 Q. So for hydrocodone, it's</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 346</p> <p>1 500BT. 2 That's the size, or the 3 strength? 4 A. That's the size. 5 Q. The size. 6 So what does that mean? 500 7 what? 8 A. That's 500 dosage units, or 9 pills, in a bottle. 10 Q. Is that a dosage units or 11 pills, or is that the same thing? 12 A. Same thing. 13 Q. All right. The strength, it 14 says 10 to 500. 15 What is that? 16 A. That's the strength. 17 Q. What does the 10 represent, 18 and what does the 500 represent? 19 A. The 10 represents milligrams 20 of hydrocodone, and the 500 represents 21 milligrams of acetaminophen. 22 Q. Okay. And according to 23 this, it was one order of 500 doses of 24 hydrocodone, correct?</p> | <p style="text-align: right;">Page 348</p> <p>1 form. 2 MR. MIGLIORI: I'm just 3 trying to understand the document. 4 MR. JONES: Yes, I know you 5 are. 6 BY MR. MIGLIORI: 7 Q. There is an order dated 8 February 29th, 2012, correct? 9 A. Yes. 10 Q. It is for -- it was ordered 11 on 2/29/12. It was released on 3/27/12, 12 correct, almost a month later? 13 A. No, I don't see that. 14 Q. Do you see the release date 15 right next to it? You can look at my 16 finger. 17 MR. JONES: You're looking 18 at a different page. 19 THE WITNESS: I don't see 20 3/27 anywhere. 21 BY MR. MIGLIORI: 22 Q. Look at the screen, I can 23 show it to you. 24 MR. JONES: Here, on the</p> |
| <p style="text-align: right;">Page 347</p> <p>1 A. Yes. 2 Q. All right. And so that 3 appears -- does that appear to be the one 4 that was cleared? 5 A. The one on 10/24? 6 Q. The one on 10/24 that we 7 just went through -- 8 A. Yes. 9 Q. -- that was cleared by Patti 10 Hall, okay. 11 The second one she cleared 12 was on March 1st, 2012, correct? 13 I don't see -- 14 A. That, I was going to say, 15 that's the date of the notation. I'm not 16 sure of the date of the order. 17 Q. So could it be this order 18 two days earlier on February 29th, 2012? 19 Because it has a release date here of 20 3/27, so would that mean that it pended 21 for a month? 22 A. 3/27? 23 Q. Do you see the -- 24 MR. JONES: Object to the</p> | <p style="text-align: right;">Page 349</p> <p>1 second page. 2 THE WITNESS: Oh, you're on 3 the next page. Okay. 4 Yes. Okay. Yes, I see it. 5 BY MR. MIGLIORI: 6 Q. It is the customer number, 7 it's the DEA registration number, and 8 then the quantity now is two orders of 9 500 pills of 10 milligrams of hydrocodone 10 and 500 milligrams of acetaminophen, 11 correct? 12 A. Yes. 13 Q. And it says that order took 14 a month to release, as opposed to the 15 order above it that took one day to 16 release, right? I'm reading this 17 correctly, aren't I? 18 A. It shows the release date of 19 3/27. 20 Q. If you look at all the other 21 orders and release dates, they are either 22 the same day or the next day? 23 A. Uh-huh. 24 Q. This is the only one that's</p> |

Page 350

1 a month apart.
 2 So does that in any way
 3 inform you about whether or not this
 4 would have been the pended order that got
 5 reviewed?
 6 A. It's difficult to say,
 7 because the order on the Page 1 says
 8 2/29/12, released 3/1/12, which
 9 corresponds to the date of the note.
 10 Q. So this doctor ordered, on
 11 the same day, hydrocodone, two quantities
 12 of 500, which were released in a day.
 13 And on the same day ordered another two
 14 orders of hydrocodone and that was
 15 released a month later, correct?
 16 So based on these records,
 17 in one day this doctor ordered four
 18 orders of 500 hydrocodone pills, correct?
 19 A. No, I don't think so.
 20 So he -- so on the -- at the
 21 bottom of Page 1 --
 22 Q. Let's go through it
 23 together. Yes.
 24 A. -- it shows the order

Page 351

1 quantity is two.
 2 Q. All right.
 3 A. But if you look all the
 4 way --
 5 Q. Let's make sure we're
 6 looking at the same line.
 7 If you look at the screen,
 8 it's the last entry on the page.
 9 A. Yes.
 10 Q. On 2/29/12, Dr. Heim ordered
 11 two quantities of 500 pills of
 12 hydrocodone -- 10 milligrams hydrocodone,
 13 500 milligrams acetaminophen, correct?
 14 A. Correct.
 15 Q. And that says that it was
 16 released on 3/1/2012?
 17 A. Yes.
 18 But if you look to the
 19 right -- I'm sorry, if you go back, on
 20 the last column, it says ship.
 21 Q. Right.
 22 A. It says one.
 23 Q. So he ordered two and they
 24 shipped one?

Page 352

1 A. Yes.
 2 Q. So it showed up as a -- what
 3 you called a pended order, right?
 4 A. Uh-huh.
 5 Q. Because it was a deviation
 6 of size, frequency or strength or
 7 pattern, correct?
 8 A. Well, to clarify, there was
 9 hydrocodone and depotestosterone that
 10 were placed on that order.
 11 Q. Right.
 12 A. So I'm not sure which of the
 13 items caused that order to pend.
 14 Q. Okay. And shouldn't that be
 15 reflected in the due diligence file?
 16 A. I don't think that it is.
 17 Q. So how does Patti Hall know
 18 what to look for if it's not in the due
 19 diligence file that pends?
 20 A. In the system it would show
 21 what was -- what pended.
 22 Q. So if this is what I have
 23 for a due diligence file, it's not
 24 complete, then?

Page 353

1 MR. JONES: Object to the
 2 form. Misstates the testimony.
 3 BY MR. MIGLIORI:
 4 Q. Well, the information of why
 5 it pends exists in the system, correct?
 6 A. Correct.
 7 Q. And it wouldn't be purged in
 8 2011, it would still be there today,
 9 correct?
 10 A. Correct.
 11 Q. And you'll agree with me, at
 12 least in Exhibit-21 that we looked
 13 through -- or 20 that we looked through
 14 together, there was nothing in this
 15 exhibit that I have that shows why it was
 16 pended, whether it was for testosterone
 17 or for hydrocodone or both, correct?
 18 A. Correct.
 19 Q. But if you do look at
 20 Exhibit-21 and you see that they ordered
 21 two on the bottom of the first page, Dr.
 22 Heim ordered two 500-pill orders of
 23 hydrocodone, but you only shipped one.
 24 Does that tell you that that

| | |
|--|---|
| <p style="text-align: right;">Page 354</p> <p>1 was, at least, part of the pended order?</p> <p>2 MR. JONES: Object to the</p> <p>3 form.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. If that weren't a pended</p> <p>6 order, wouldn't you have shipped two</p> <p>7 bottles instead of one?</p> <p>8 A. Not necessarily.</p> <p>9 Q. Why would you have only</p> <p>10 shipped half the order?</p> <p>11 A. It could have been</p> <p>12 inventory.</p> <p>13 Q. Okay. Well, is there any</p> <p>14 way it says here whether it was</p> <p>15 inventory?</p> <p>16 A. No. It's not reflected on</p> <p>17 the report.</p> <p>18 Q. We know it would have been</p> <p>19 around the time of a pended order, based</p> <p>20 on the front page, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And if we look at the</p> <p>23 testosterone that you point out on the</p> <p>24 second page, he ordered four vials of</p> | <p style="text-align: right;">Page 356</p> <p>1 shipped one, correct?</p> <p>2 A. That's right.</p> <p>3 Q. And on that same day of</p> <p>4 March 1st, if we go back to Exhibit-20,</p> <p>5 that same day, March 1st, 2012, Patti</p> <p>6 Hall made a finding that, whatever it was</p> <p>7 that was of concern and pended, was</p> <p>8 within the scope of the letter; that is,</p> <p>9 her clearing a shipment happened on March</p> <p>10 1st, the same day that that order was</p> <p>11 shipped?</p> <p>12 A. Yes.</p> <p>13 Q. All right. So the</p> <p>14 testosterone went as ordered, four</p> <p>15 bottles were ordered, four bottles were</p> <p>16 sent; as opposed to the hydrocodone, two</p> <p>17 bottles were ordered on that day and only</p> <p>18 one was shipped, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Then on that same day, in</p> <p>21 your same system, Dr. Heim has another</p> <p>22 order with a different number. You'll</p> <p>23 agree with me that this is a different</p> <p>24 number, right, a different -- totally</p> |
| <p style="text-align: right;">Page 355</p> <p>1 testosterone and he got four bottles of</p> <p>2 testosterone, correct?</p> <p>3 A. That's right.</p> <p>4 Q. Isn't it fair to assume,</p> <p>5 from that document, that the concern had</p> <p>6 to do with the hydrocodone, which only</p> <p>7 half was shipped, as compared to the</p> <p>8 testosterone, where all of it was</p> <p>9 shipped?</p> <p>10 A. No, not necessarily.</p> <p>11 Q. All right. So you can't</p> <p>12 tell me, looking at the files that I've</p> <p>13 been given and that I'm showing you,</p> <p>14 what, of that order, was pended and what</p> <p>15 was cleared and released, correct?</p> <p>16 MR. JONES: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: Correct.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. But you can confirm for me,</p> <p>21 looking at this, that on February 29th of</p> <p>22 2012, Dr. Heim ordered two bottles of</p> <p>23 hydrocodone and the next day your</p> <p>24 company, based on this report, only</p> | <p style="text-align: right;">Page 357</p> <p>1 different order? It has a different</p> <p>2 invoice number, correct?</p> <p>3 A. Are you talking about the</p> <p>4 3551823?</p> <p>5 Q. Yes. There's a 3551823.1</p> <p>6 and a 3551823.2.</p> <p>7 A. Right. So that's the same</p> <p>8 order with two different invoices.</p> <p>9 Q. Why would it have two</p> <p>10 different invoices?</p> <p>11 A. Because the whole order</p> <p>12 didn't ship initially.</p> <p>13 Q. All right. So then the</p> <p>14 second bottle that he ordered did ship,</p> <p>15 according to this documentation, on</p> <p>16 3/27/12?</p> <p>17 A. Correct.</p> <p>18 Q. All right. So now we know</p> <p>19 that Patti Hall had a pended order, we</p> <p>20 don't know -- you can't tell me which</p> <p>21 one, but everything in the original order</p> <p>22 gets shipped within a day except for one</p> <p>23 order of hydrocodone.</p> <p>24 And a month later, that</p> |

Page 358

1 second bottle of hydrocodone gets shipped
 2 to Dr. Heim, correct?
 3 A. Yes.
 4 Q. And based on all of those
 5 facts, you can't tell me that the reason
 6 for the pend was the investigation into
 7 the hydrocodone?
 8 A. That's right.
 9 Q. All right. So you ship the
 10 second bottle to Dr. Heim.
 11 And you'll agree with me
 12 that if you are just looking at
 13 hydrocodone -- strike that.
 14 It's so hard for me to read
 15 this thing. If you're looking at
 16 hydrocodone, he, less than a month before
 17 that, ordered two bottles in February of
 18 2012, just three weeks earlier, and those
 19 shipped to -- those two bottles shipped
 20 to him on the same day that he ordered
 21 them, correct?
 22 A. Correct.
 23 Q. So you've got a frequency of
 24 less than a month where he's now ordered

Page 359

1 four bottles, correct?
 2 A. Yes.
 3 Q. And you still can't tell me
 4 that that's what caused the pend?
 5 A. Correct.
 6 Q. And nowhere in this due
 7 diligence file that you show me does it
 8 cause -- can you tell me any more
 9 information about what caused the pend,
 10 correct?
 11 A. Correct.
 12 Q. But we do know that somehow
 13 in this short -- strike that.
 14 We do know that from June of
 15 2011 through July of 2012, in thirteen
 16 months, 11,500 doses of hydrocodone were
 17 sent to Dr. Heim by Schein?
 18 MR. JONES: Object to the
 19 form.
 20 BY MR. MIGLIORI:
 21 Q. Correct?
 22 MR. JONES: Lack of
 23 foundation.
 24 BY MR. MIGLIORI:

Page 360

1 Q. Is that correct?
 2 A. You want me to add it up?
 3 Q. I can show you the
 4 government's math if it helps you.
 5 MR. JONES: I'm not sure if
 6 the math is right, so object to
 7 form.
 8 MR. MIGLIORI: Since you did
 9 that, I'm going to take the time
 10 to do it.
 11 That Exhibit-20 that I gave
 12 you is an addendum to this. I'm
 13 not going to mark it, unless you
 14 want me to. I only have one copy.
 15 BY MR. MIGLIORI:
 16 Q. This is the motion -- I'll
 17 show it to you. It's in front of Judge
 18 Polster, who is the judge in this case,
 19 in the Northern District of Ohio.
 20 And that motion from the
 21 United States government against Dr. Heim
 22 refers to a table that Henry Schein
 23 helped the government put together of all
 24 orders.

Page 361

1 And this list actually comes
 2 from -- this list actually, I think,
 3 comes from you. Let me verify this.
 4 MR. JONES: I'm sorry, Don,
 5 what number are you representing
 6 is the total number on this
 7 exhibit?
 8 MR. MIGLIORI: That's what
 9 I'm going -- I'm going to verify.
 10 Just one second, please.
 11 I wasn't planning to pull
 12 this out, so I need to quickly
 13 make sure I get the source right.
 14 MR. JONES: I think you're
 15 close, Don. With my math, it's
 16 coming up with the same little
 17 glitch that we were talking about,
 18 where it's double counted where
 19 that order was split.
 20 MR. MIGLIORI: I promise
 21 you, I'm not making it up. But if
 22 it double counts the one 500 and
 23 it's only 11,000, I'm okay with
 24 that.

| | |
|--|---|
| <p style="text-align: right;">Page 362</p> <p>1 MR. JONES: I think it's</p> <p>2 somewhere around there. If I'm</p> <p>3 reading it right -- I mean, I'd</p> <p>4 like the witness to look at it.</p> <p>5 But just so we have a</p> <p>6 clarification on the record that</p> <p>7 might not be reflected in whatever</p> <p>8 submission you're looking for.</p> <p>9 MR. MIGLIORI: Well, I'd</p> <p>10 like to do it off your own records</p> <p>11 because you're used to it.</p> <p>12 BY MR. MIGLIORI:</p> <p>13 Q. But if you add up all the</p> <p>14 500s of hydrocodone --</p> <p>15 MR. JONES: On the ships?</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. -- on the ships, you're</p> <p>18 talking about one, two, three, four,</p> <p>19 five, six, seven, eight, nine, ten, 11,</p> <p>20 12, 13, 14, 15, 16, 17, 18, 19, 20, 21?</p> <p>21 A. I'm coming to 21 also.</p> <p>22 Q. Twenty-one --</p> <p>23 A. Which would be 11,500.</p> <p>24 Q. All right. So I was right.</p> | <p style="text-align: right;">Page 364</p> <p>1 been accounting for pattern and</p> <p>2 frequency.</p> <p>3 Q. Okay. So twice over this</p> <p>4 13-month period the system, suspicious</p> <p>5 order monitoring system at Schein, caused</p> <p>6 the ordering practice of Dr. Heim to</p> <p>7 trigger for deviation in size, pattern</p> <p>8 and/or frequency, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Manually, an employee at</p> <p>11 Schein named Patti Hall overrode both of</p> <p>12 those pended orders, correct?</p> <p>13 A. Correct.</p> <p>14 Q. That is, everything ordered</p> <p>15 in that 13-month period of time by Dr.</p> <p>16 Schein was, in fact, delivered to him,</p> <p>17 correct?</p> <p>18 MR. JONES: I'm sorry, you</p> <p>19 keep saying, as of late, Dr.</p> <p>20 Schein.</p> <p>21 MR. MIGLIORI: Dr. Heim.</p> <p>22 They're too close.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. Everything ordered by Dr.</p> |
| <p style="text-align: right;">Page 363</p> <p>1 Accidentally.</p> <p>2 MR. JONES: I was wrong.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. 11,500 pills were shipped to</p> <p>5 Dr. Heim in a 13-month period, based on</p> <p>6 your records, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Of that 11,500 pills</p> <p>9 shipped, somewhere in there, two orders,</p> <p>10 which also had testosterone, all orders</p> <p>11 at the same time, two orders were flagged</p> <p>12 by the computer system as pended orders,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Which means that something</p> <p>16 in the algorithm, in the order, told the</p> <p>17 computer that there was a deviation of</p> <p>18 some sort.</p> <p>19 And based on the other</p> <p>20 documents we've seen as of this point,</p> <p>21 the deviation would have been in size,</p> <p>22 because it wasn't yet calculating for</p> <p>23 pattern or frequency, correct?</p> <p>24 A. At this time, we would have</p> | <p style="text-align: right;">Page 365</p> <p>1 Heim in that period of time was shipped,</p> <p>2 correct?</p> <p>3 A. I'm not certain of that.</p> <p>4 Q. Based on this document --</p> <p>5 A. Well, this is a purchase</p> <p>6 record.</p> <p>7 Q. Right. There's an order</p> <p>8 column and there's a ship column.</p> <p>9 And those, at least, match</p> <p>10 up, correct?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Yes?</p> <p>13 A. Yes.</p> <p>14 Q. So during the same period of</p> <p>15 time, as I showed you in Exhibit-19, the</p> <p>16 U.S. government, the DEA, looked at the</p> <p>17 ARCOS database and noticed an excessively</p> <p>18 high order of hydrocodone.</p> <p>19 I'll refer you back to</p> <p>20 Exhibit-19, Page 5, on July 5th, 2012.</p> <p>21 We can agree this is within the time</p> <p>22 frame, right?</p> <p>23 MR. JONES: Object to the</p> <p>24 form.</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 366</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. Brinks, the DEA agent,</p> <p>3 checked the DEA Automation of Reports and</p> <p>4 Consolidated Order System, ARCOS, which</p> <p>5 is a DEA database used to capture the</p> <p>6 activity of controlled substances from</p> <p>7 the point of manufacture and/or</p> <p>8 distribution to the point of sale to the</p> <p>9 retail level registrant.</p> <p>10 Here, that would be Dr.</p> <p>11 Heim.</p> <p>12 This check of ARCOS revealed</p> <p>13 that the defendant, Dr. Heim, was</p> <p>14 purchasing extraordinarily large amounts</p> <p>15 of hydrocodone tablets, hydrocodone and</p> <p>16 acetaminophen, from the pharmaceutical</p> <p>17 wholesaler Henry Schein, Inc.</p> <p>18 In July of 2012, did you, at</p> <p>19 Schein, make any such observation as</p> <p>20 reflected in any of the documents that</p> <p>21 I've shown you, that this was an</p> <p>22 excessively or an extraordinarily large</p> <p>23 amount of hydrocodone being purchased</p> <p>24 from wholesaler Henry Schein?</p> | <p style="text-align: right;">Page 368</p> <p>1 hydrocodone being shipped to Dr. Heim of</p> <p>2 Akron, Ohio?</p> <p>3 MR. JONES: Objection.</p> <p>4 Asked and answered. Objection.</p> <p>5 Form. Outside the scope.</p> <p>6 THE WITNESS: I don't see</p> <p>7 anything in the documentation.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. So it's fair to say that the</p> <p>10 United States government, by looking at</p> <p>11 ARCOS, could identify this pattern of</p> <p>12 extraordinarily high supply of</p> <p>13 hydrocodone to Dr. Heim, but, at least</p> <p>14 based on what we have in front of us from</p> <p>15 Dr. Heim's due diligence file at Schein,</p> <p>16 there is no indication of a similar</p> <p>17 detection within the Schein -- Henry</p> <p>18 Schein suspicious order monitoring</p> <p>19 program, correct?</p> <p>20 MR. JONES: Objection.</p> <p>21 Form. Calls for speculation.</p> <p>22 Outside the scope.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. Correct?</p> |
| <p style="text-align: right;">Page 367</p> <p>1 MR. JONES: Objection.</p> <p>2 Form.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. Based on anything you've</p> <p>6 seen here, did Henry Schein in any way</p> <p>7 catch that Dr. Heim was getting an</p> <p>8 extraordinarily large amount of</p> <p>9 hydrocodone?</p> <p>10 MR. JONES: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: I don't know.</p> <p>13 BY MR. MIGLIORI:</p> <p>14 Q. You don't know?</p> <p>15 Do you see anything that</p> <p>16 tells you that they did?</p> <p>17 A. I don't see anything in the</p> <p>18 documentation.</p> <p>19 Q. Do you see anything in the</p> <p>20 due diligence file that I just showed you</p> <p>21 that, other than the two pends by Patti</p> <p>22 Hall that were released, that showed that</p> <p>23 Henry Schein, in fact, identified an</p> <p>24 extraordinarily large amount of</p> | <p style="text-align: right;">Page 369</p> <p>1 A. Yes.</p> <p>2 Q. And this program, by this</p> <p>3 time, is the enhanced program, correct?</p> <p>4 A. I'm sorry, repeat that one.</p> <p>5 Q. The program that would have</p> <p>6 been in place by June of 2011 through</p> <p>7 August of 2012 would have been Henry</p> <p>8 Schein's enhanced program, correct?</p> <p>9 A. Enhanced system.</p> <p>10 Q. Enhanced suspicious order</p> <p>11 monitoring system?</p> <p>12 A. Correct.</p> <p>13 Q. And to the extent that any</p> <p>14 such information exists within the Henry</p> <p>15 Schein suspicious order monitoring system</p> <p>16 that identifies an extraordinarily large</p> <p>17 amount of supply going to Dr. Heim, that</p> <p>18 information would rest in the JDE system</p> <p>19 and would still exist today, correct?</p> <p>20 A. Correct.</p> <p>21 Q. To close this story, Dr.</p> <p>22 Heim was sentenced to five years --</p> <p>23 sentenced to five years in federal prison</p> <p>24 for drug-related offenses.</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 370</p> <p>1 If Dr. Heim never made 2 another order, would he ever pop up in 3 the system as being suspend or cancelled 4 as a client? 5 MR. JONES: Object to form. 6 Vague. Outside the scope. Calls 7 for speculation. 8 THE WITNESS: Sorry, can you 9 restate? 10 BY MR. MIGLIORI: 11 Q. Sure. 12 I don't see anything else, 13 other than what I have here in the due 14 diligence file for Dr. Heim, about -- I 15 don't see anything about an indictment. 16 I don't see anything about a conviction. 17 I don't see anything about a sentencing. 18 All I have on here is a last 19 entry that -- from you on August 30th, 20 2012 that is, Henry Schein letter is on 21 file. 22 That's all that I have. 23 If he never placed another 24 order with Henry Schein, is it possible</p> | <p style="text-align: right;">Page 372</p> <p>1 this order and investigate whether Dr. 2 Heim should get oxy -- hydrocodone? 3 A. The only time trigger would 4 be the license. 5 Q. So if the license were not 6 verified -- how frequently does the 7 license have to be verified within the 8 Henry Schein system, the SOM? 9 A. It's not part of our SOM 10 process. 11 Q. So if this is current, if 12 this is, if this is the due diligence 13 file as of today, there is nothing saying 14 that the relationship with Dr. Heim has 15 been terminated? 16 If what we're looking at 17 today in Exhibit-20 in front of you right 18 now is all that you have, there is 19 nothing to indicate your client -- 20 customer relationship with him has been 21 terminated, correct? 22 MR. JONES: Object to form. 23 Calls for speculation. Outside 24 the scope.</p> |
| <p style="text-align: right;">Page 371</p> <p>1 that his account is still open with 2 Schein? 3 MR. JONES: Object to the 4 form. Outside the scope. Calls 5 for speculation. 6 THE WITNESS: Yeah, I don't 7 know. I mean, he wouldn't have 8 his licenses, I presume. 9 BY MR. MIGLIORI: 10 Q. Right. So let's say Dr. 11 Heim put in an order four years later 12 after his last order. 13 In the suspicious order 14 monitoring program at Henry Schein, is 15 there a trigger that says, we haven't 16 heard from him in a couple of years, we 17 need to pend this order? 18 A. If it was input, yes. 19 Q. What do you mean "if it was 20 input"? 21 A. Somebody has to flag the 22 system. 23 Q. Does the system say, it's 24 been 12 months, it's been 24 months, pend</p> | <p style="text-align: right;">Page 373</p> <p>1 BY MR. MIGLIORI: 2 Q. Is that correct? 3 A. It mentioned in the document 4 that if Dr. Heim were to order, that we 5 contact DEA. 6 Q. Great. Let's go to that. 7 You're talking about Page 8 1199, Dr. Heim, August 30th of 2012, as 9 of this point, he's been indicted for 10 drug-related offenses, correct, based on 11 that document? 12 A. Yes. 13 Q. It is now clear that he -- 14 strike that. 15 So at this point, you're 16 already cooperating with DEA on the 17 investigation by providing them with the 18 amount of supplied controlled substances 19 you shipped to him over those 13 months, 20 correct? 21 A. I'm not sure when we 22 produced it. 23 Q. And this entry here, do you 24 know who makes this entry? Can you tell</p> |

Page 374

1 by looking at it?

2 A. No.

3 Q. This entry says, as of

4 August 30th, 2012, Dr. Brian Heim, who

5 has pled guilty to 24 felony counts of

6 drug trafficking in 1998 and has just

7 been indicted in Summit County in Ohio,

8 where this court sits, on drug

9 trafficking charges, that he's been

10 approved within the Schein system to

11 purchase testosterone and you'll continue

12 to notify DEA if he orders it.

13 That's the status of your

14 relationship with this customer as of

15 August 30th, 2012?

16 A. Right. Which indicates to

17 me that, your question earlier, if Dr.

18 Heim had placed another order, would we

19 have contacted him for updated due

20 diligence; based on that note, the answer

21 would be yes.

22 Q. So would you have sent out

23 another letter to him?

24 A. It would have been another

Page 375

1 questionnaire we would have sent.

2 Q. So you would have relied on

3 his responses to a questionnaire.

4 If we go back to the

5 questionnaire, one of them is, in fact,

6 dated August of 2012.

7 You did send him a

8 questionnaire in August, right?

9 A. Uh-huh.

10 Q. Is there anywhere in this

11 questionnaire where it says to Schein,

12 oh, by the way, I've been indicted on

13 drug trafficking charges for medications

14 that you supplied to me?

15 A. No.

16 Q. Is there anywhere in this

17 due diligence file that suggests that

18 somebody picked up the phone to call him

19 and talk to him about this questionnaire?

20 A. No.

21 Q. Does this questionnaire even

22 ask if you have a felony drug-related

23 history?

24 A. No.

Page 376

1 Q. And yet, according to this

2 file, if Dr. Brian Heim, on August 24th,

3 2012, while being prosecuted by the

4 United States government, if he wanted to

5 order testosterone, on its face it would

6 not have been pended, right?

7 A. I don't know.

8 MR. MIGLIORI: Why don't we

9 take a break here?

10 VIDEO TECHNICIAN: The time

11 is now 4:15 p.m. We're going off

12 the record.

13 - - -

14 (Whereupon, a brief recess

15 was taken.)

16 - - -

17 VIDEO TECHNICIAN: The time

18 is now 4:35 p.m. We are back on

19 the record.

20 - - -

21 (Whereupon, Exhibit

22 Schein-Abreu-22,

23 HSI-MDL-00019701-704, was marked

24 for identification.)

Page 377

1 - - -

2 BY MR. MIGLIORI:

3 Q. Mr. Abreu, this is Exhibit

4 Number 22.

5 We're in the home stretch, I

6 promise.

7 MR. MIGLIORI: Counsel, it's

8 HSIMDL1970 -- I'm sorry, 19701.

9 BY MR. MIGLIORI:

10 [REDACTED]

21 As you're looking through

22 this, have you seen this before?

23 A. No.

24 Q. I'm only going to start on

Page 378

1 the second page, the one that ends in
2 19702, and the e-mail from Donna
3 Raymondito to Sergio Tejada.

4 Do you see that?

5 A. Yes.

6 Q. So that's an e-mail dated
7 March 21st, 2007.

8 At this time, you are an
9 employee of Henry Schein, but you're not
10 in verifications yet, correct?

11 A. That's right.

12 Q. But Sergio Tejada is in
13 regulatory at this time, correct?

14 A. Correct.

15 Q. And Donna Raymondito, is she
16 in verifications?

17 A. Yes.



Page 380

1 divisions would interact with each other,
2 correct?

3 A. Collaboration.

4 Q. Collaboration.

5 So if verification saw a

6 zero pend for a doctor and wanted to know
7 whether it could ship orders being
8 placed, it wouldn't be irregular for
9 verification to contact Sergio and say,
10 can you tell me what's going on here,
11 correct?

12 A. It depends on the
13 circumstances.

14 Q. Okay. In this circumstance,
15 as you can tell, this is normal
16 collaboration interaction, correct?

17 MR. JONES: Objection.

18 Form. Outside the scope.

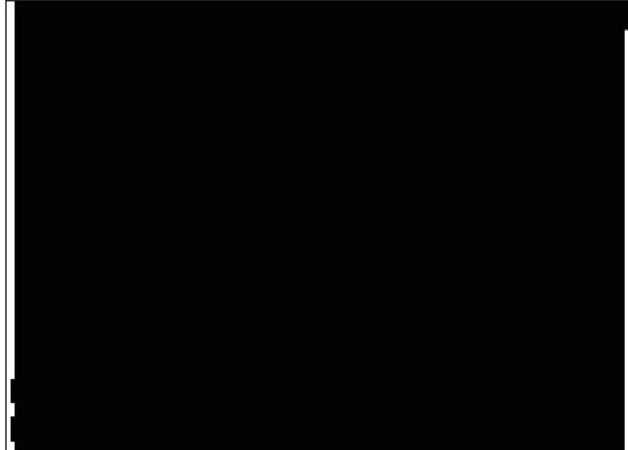
19 BY MR. MIGLIORI:

20 Q. Yes?

21 A. Yes.

22 Q. All right. If you go -- to
23 read e-mail strings, you have to actually
24 go back to front.

Page 381



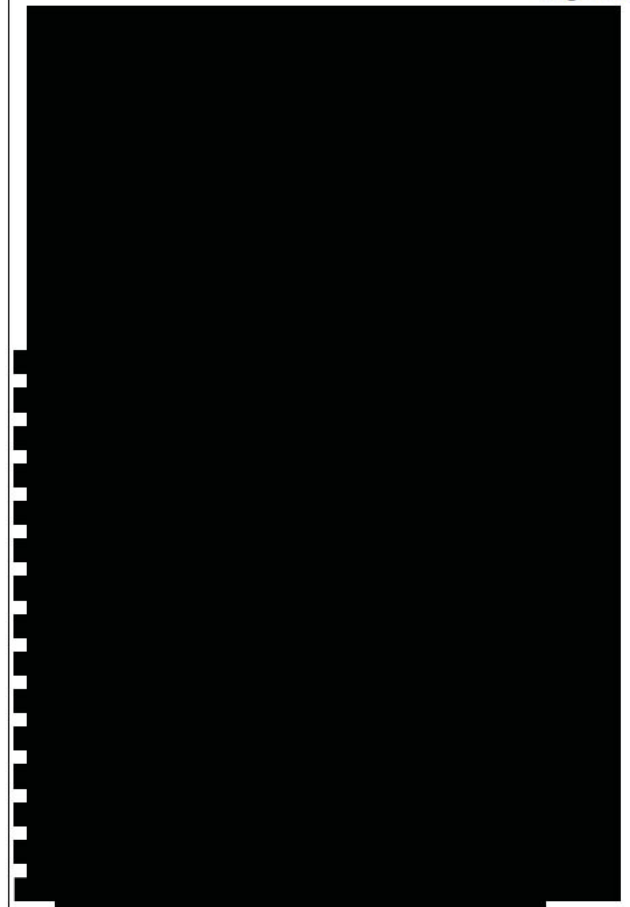
12 Would this be, if this came
13 to the attention of somebody in
14 verification, would this be a customary
15 practice, in your experience, for
16 somebody from verification -- from
17 verification to write to Sergio or
18 regulatory to ask about a threshold
19 that's been set at zero?

20 MR. JONES: Object to the
21 form. Outside the scope.

22 THE WITNESS: I'm not sure.

23 BY MR. MIGLIORI:

24 Q. That's how these two



Page 382

12 Is the release of an order
13 like this, in the context of a zero pend,
14 something that a staff level person in
15 verification would be authorized to do in
16 2007?

17 A. I'm not sure.

18 Q. The drug is hydromorphone.
19 You would agree with me that
20 that is a Class II controlled substance,
21 correct?

22 A. Correct.

23 Q. That it is subject to the
24 suspicious order monitoring requirements

Page 383

1 of the DEA, correct?

2 A. Correct.

3 Q. And it was released here,
4 according to this e-mail, by Donna on her
5 own, at least based on what she
6 represents here, after doing her own
7 research on what that drug is indicated
8 for.

9 Is that what it appears to
10 be?

11 A. Yeah, I'm not sure if
12 additional discussions took place.

13 Q. Okay. But we know that
14 nobody -- at least Sergio, didn't get
15 back to her, correct, according to this
16 e-mail?

17 A. Based on what was written.

18 Q. Okay.

19 A. But I don't know if they did
20 speak.

21 Q. Well, let's go up a little
22 bit.

Page 384

Page 385

1 [REDACTED]
2 Now, Lisa Madalon, at that
3 point, is verification, correct?

4 A. Correct.

5 Q. And you'd agree --

6 MR. JONES: Objection to the
7 sidebar.

8 BY MR. MIGLIORI:

9 Q. And you would agree with me
10 that, at this time, verification is not
11 regulatory, correct?

12 A. Correct.

13 Q. And in this exchange back
14 and forth, Lisa is expressing to the
15 customer service folks that she's really
16 concerned because verification has become
17 regulatory.

18 Do you see that?

19 MR. JONES: Objection. The
20 document speaks for itself.
21 Outside the scope. Calls for
22 speculation.

23 BY MR. MIGLIORI:

24 Q. Do you see that?

Page 386

1 A. I see what the document
2 says.
3 Q. Did you hear, or did you
4 know of complaints, within the Henry
5 Schein verification department, that you
6 now run, that the support and
7 collaboration with regulatory was not
8 strong prior to you getting there in
9 2009?
10 MR. JONES: Objection.
11 Form. Outside the scope.
12 THE WITNESS: No, I'm not
13 aware.
14 BY MR. MIGLIORI:
15 Q. You would agree with me that
16 if what's represented in this e-mail is
17 true, that's not good coordination
18 between verification and regulatory,
19 correct?
20 MR. JONES: Objection.
21 Form. Calls for speculation.
22 Outside the scope.
23 THE WITNESS: I really can't
24 say.

Page 387

1 BY MR. MIGLIORI:
2 Q. Well, you're here, as a
3 representative of the company, to talk
4 about the suspicious order monitoring
5 program, correct?
6 A. Correct.
7 Q. Is this something, today,
8 that you would be -- that you would
9 accept, as a manager of the verifications
10 department, as a process for releasing an
11 order of hydromorphone when the system
12 has it listed as a zero pend customer?
13 Would you be okay with this?
14 A. Would I be okay with it?
15 Q. Yes.
16 A. It's from 2007. It was
17 before my time.
18 Q. I'm asking today. Just so
19 we're clear, I'm asking today, if you
20 received this, if you were in Lisa
21 Madalon's shoes, which you are now, is
22 this acceptable to you?
23 MR. JONES: Object to the
24 form. Same objection. Outside

Page 388

1 the scope.
2 THE WITNESS: I'm not sure.
3 BY MR. MIGLIORI:
4 Q. Would you be okay with
5 somebody working for you, today,
6 releasing an order of hydromorphone
7 without collaborating with regulatory
8 under the existing today suspicious order
9 monitoring program at Henry Schein?
10 MR. JONES: Objection.
11 Form.
12 THE WITNESS: There needs to
13 be collaboration.
14 BY MR. MIGLIORI:
15 Q. And if this is accurate,
16 there was none in this case, correct?
17 A. I can't speak to that.
18 Q. All right. If you found out
19 that your employee working in
20 verification did that today, what would
21 be your next step, once you found out?
22 A. Sorry, can you rephrase
23 that?
24 Q. Yes.

Page 389

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 MR. JONES: Objection.
13 Form.
14 BY MR. MIGLIORI:
15 Q. Under your system in place
16 today.
17 A. I'm not sure. It's a
18 hypothetical.
19 Q. That's okay. You can answer
20 a hypothetical.
21 A. I'm not sure what I would
22 do.
23 Q. Would you be okay with it?
24 A. I'd probably make a phone

Page 390

1 call.

2 Q. To whom?

3 A. To regulatory.

4 Q. And what would be your

5 concern, that regulatory wasn't

6 cooperating?

7 A. That there be collaboration.

8 Q. Would you talk to Donna

9 Raymondito and tell her that, next time

10 you have to wait until you actually get

11 collaboration?

12 A. Yes.

13 Q. You can put that to the

14 side. I'll show you Exhibit Number 23.

15 - - -

16 (Whereupon, Exhibit

17 Schein-Abreu-23, HSI-MDL-00002760,

18 was marked for identification.)

19 - - -

20 BY MR. MIGLIORI:

21 Q. Exhibit-23 is Bates number

22 HSIMDL2760. This is dated December of

23 2009. The issue is scheduling a team

24 meeting.

Page 391

1 At this point, you are now

2 part of verification, correct?

3 A. Yes.

4 Q. The organizer is Donna

5 Raymondito, now Tomacello -- she's trying

6 to collect as many Italian syllables as

7 she can. Only I can say that in this

8 room.

9 You're at this meeting,

10 right? Required attendees, Shaun Abreu.

11 Maggie Wilding and Judy Labarbera?

12 A. Labarbera.

13 Q. Do you recall this meeting?

14 A. No.

15 Q. It appears that Donna

16 Raymondito Tomacello is asking for a

17 meeting. And it says, I would like to

18 schedule a team meeting on Friday for

19 both New York and Reno to cover our

20 missed meeting for November.

21 So would this be a meeting

22 of the New York and Reno verification

23 departments?

24 A. It appears that way, yes.

Page 392

8 Is Huddles a program at

9 Schein?

10 A. Yes. It's kind of like a

11 quick meeting.

12 Q. Is it -- but it's an

13 in-person meeting or web cam or

14 something?

15 A. Yes. Most of the time in

16 person.

17 Q. It's not a particular

18 platform or Internet-based or anything

19 like that? It's just sort of jargon?

20 A. Jargon for a quick meeting,

21 yes.

22 Q. Got you.

Page 393

14 In 2009, do you recall

15 instances where sales reps were actually

16 educating the customers about their

17 orders in order to avoid a suspicious

18 order monitoring pend?

19 A. No, not to my knowledge.

20 Q. You would agree with me that

21 it would not be good practice to give

22 dispensing history or information to your

23 customers for the purposes of avoiding a

24 suspicious order monitoring inquiry,

| | |
|--|--|
| <p style="text-align: right;">Page 394</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. And that's because the</p> <p>4 purpose of the suspicious order</p> <p>5 monitoring program is to prevent</p> <p>6 diversion, not to get around the</p> <p>7 requirements of the DEA in order to</p> <p>8 prevent diversion, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Have you ever seen instances</p> <p>11 of your sales rep giving customers</p> <p>12 information on their ordering history in</p> <p>13 order to help them get around a</p> <p>14 suspicious order inquiry?</p> <p>15 MR. JONES: Objection.</p> <p>16 Form. Vague.</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. Have you ever seen examples</p> <p>19 of that?</p> <p>20 A. Not to my recollection.</p> <p>21 Q. Okay. Do you recall that</p> <p>22 meeting and whether or not that issue was</p> <p>23 ultimately discussed at your meeting?</p> <p>24 A. I don't recall the meeting,</p> | <p style="text-align: right;">Page 396</p> <p>1 file from the Know Your Customer</p> <p>2 proactive process.</p> <p>3 Is that the process that</p> <p>4 we're talking about to fill the due</p> <p>5 diligence files of the 60 percent of the</p> <p>6 customers that didn't have due diligence?</p> <p>7 Is that what's referred to as the</p> <p>8 proactive --</p> <p>9 A. It may have been part of</p> <p>10 that process, or just a customer that we</p> <p>11 reached out to proactively.</p> <p>12 Q. You'll agree with me that --</p> <p>13 strike that.</p> <p>14 This doctor was</p> <p>15 self-medicating, but he did 31,000 in</p> <p>16 sales for 2011. I had him send us</p> <p>17 justification stating that he will no</p> <p>18 longer order the product to self-medicate</p> <p>19 and that all future controlled substance</p> <p>20 orders will be for patients' use. Are</p> <p>21 you okay with reinstating? See attached</p> <p>22 file.</p> <p>23 Do you recall this</p> <p>24 particular doctor, Timothy Kowalski?</p> |
| <p style="text-align: right;">Page 395</p> <p>1 no.</p> <p>2 Q. All right. I'll show you</p> <p>3 Exhibit-24. You know what, I'll spare</p> <p>4 you that.</p> <p>5 Here is Exhibit-24.</p> <p>6 - - -</p> <p>7 (Whereupon, Exhibit</p> <p>8 Schein-Abreu-24, HSI-MDL-00002760,</p> <p>9 was marked for identification.)</p> <p>10 - - -</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. It is Bates number</p> <p>13 HSIMDL20069. It's an e-mail chain that</p> <p>14 involves Shaun Abreu and Craig Schiavo</p> <p>15 and Bill Brandt.</p> <p>16 The e-mail on the bottom is</p> <p>17 dated January 31st, 2012. It's from you</p> <p>18 to Craig Schiavo and Bill Brandt.</p> <p>19 Craig, at this point, is in</p> <p>20 what department?</p> <p>21 A. Regulatory.</p> <p>22 Q. Regulatory.</p> <p>23 You write, January 30th,</p> <p>24 2012, Hi, Craig, please see the attached</p> | <p style="text-align: right;">Page 397</p> <p>1 A. No.</p> <p>2 Q. Do you recall any doctors</p> <p>3 that you had interaction with that you've</p> <p>4 learned, in your proactive Know Your</p> <p>5 Customer process, were self-medicating?</p> <p>6 A. Not specifically by name,</p> <p>7 no.</p> <p>8 Q. And is it -- was it, in</p> <p>9 2012, acceptable to clear a doctor for</p> <p>10 controlled substance orders based on his</p> <p>11 promise not to take anymore drugs</p> <p>12 himself?</p> <p>13 A. Sorry, restate the question.</p> <p>14 Q. Is this a normal process</p> <p>15 within Henry Schein, at least in 2012,</p> <p>16 that a letter from a doctor who is</p> <p>17 self-medicating with controlled</p> <p>18 substances promising not to do it anymore</p> <p>19 would be enough to reinstate him?</p> <p>20 A. Not that -- not that alone,</p> <p>21 no. It depends on the circumstances.</p> <p>22 Q. What is the relevance of the</p> <p>23 fact that he did 31,000 in sales in 2011?</p> <p>24 A. Well, you have -- there are</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 398</p> <p>1 doctors who self-prescribe or 2 self-medicate that don't have an active 3 practice. 4 Q. So the fact that he had an 5 active practice and generated \$31,000 in 6 sales made him less likely to 7 self-medicate? 8 A. Not less likely. But, I 9 guess, the risk for future 10 self-medication would be lower. 11 Q. Based on what? 12 A. What? 13 Q. Based on what? 14 A. Based on the active practice 15 and him putting -- the doctor putting it 16 in writing. 17 Q. You acknowledge that even in 18 the Controlled Substances Act, by 19 definition, a Schedule II drug, a 20 controlled substance Schedule II drug, 21 is, by definition, at high risk for 22 abuse? 23 A. Yes. 24 Q. You would acknowledge that</p> | <p style="text-align: right;">Page 400</p> <p>1 controlled substances from your company, 2 correct? 3 A. Possibly. 4 Q. Is him writing a letter to 5 the company, in your view, a robust due 6 diligence, Know Your Customer process, 7 for avoiding the potential diversion of 8 those drugs by this doctor? 9 MR. JONES: Object to the 10 form. 11 THE WITNESS: It's difficult 12 to say. 13 BY MR. MIGLIORI: 14 Q. It is difficult to say, 15 right? 16 A. No, I'm saying, it's 17 difficult to answer you, depending -- 18 because you don't know what due diligence 19 was conducted, based on this e-mail. 20 Q. Based on this e-mail it says 21 you asked him to write you a letter. 22 Is that enough? 23 A. I'm not saying that that's 24 all that was -- that was done.</p> |
| <p style="text-align: right;">Page 399</p> <p>1 doctors who self-medicate and use their 2 DEA registration number to get controlled 3 substances in order to self-medicate are 4 at a higher risk of abuse? 5 MR. JONES: Object to the 6 form. Outside the scope. Calls 7 for speculation. 8 BY MR. MIGLIORI: 9 Q. You would agree with that, 10 right? 11 A. Potentially. I'm not sure. 12 Q. Schedule II drugs are -- can 13 be highly addictive and are, by 14 definition, much more highly likely to be 15 abused by the person taking them, 16 correct? 17 A. By schedule? 18 Q. By definition in the 19 schedule, yes. 20 A. Yes. 21 Q. So a doctor that's taking 22 morphine equivalents has a -- at least a 23 risk of saying whatever he or she needs 24 to say in order to continue to receive</p> | <p style="text-align: right;">Page 401</p> <p>1 Q. Well, assuming that this 2 e-mail is enough -- is what was done, is 3 that enough? 4 MR. JONES: Object to the 5 form. 6 BY MR. MIGLIORI: 7 Q. That is, in your own words, 8 you say, I had him send us justification 9 stating that he will no longer order the 10 product to self-medicate and that all 11 future controlled substance orders will 12 be for patient use. 13 As manager of the 14 verification department at Henry Schein, 15 Inc., is that a sufficient basis to say 16 that this doctor is not at risk of 17 diverting controlled substances? 18 MR. JONES: Object to the 19 form. 20 THE WITNESS: Yeah, I can't 21 say. It says, See attached file. 22 So I'm not sure what was produced. 23 BY MR. MIGLIORI: 24 Q. That's fine.</p> |

| | |
|---|--|
| <p style="text-align: right;">Page 402</p> <p>1 I'm asking the question that</p> <p>2 is, if this is all that you asked for,</p> <p>3 which is what you wrote, that you had him</p> <p>4 send justification that he will no longer</p> <p>5 do it and he will only use controlled</p> <p>6 substances for his patients, if that's</p> <p>7 all that happened -- and I'm not saying</p> <p>8 that is -- if that's all that happened,</p> <p>9 would you agree with me that that's not</p> <p>10 enough due diligence to clear a doctor</p> <p>11 from the potential risk of him or her</p> <p>12 diverting the controlled substance?</p> <p>13 MR. JONES: Object to the</p> <p>14 form. Asked and answered.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Go ahead.</p> <p>17 A. I think it depends on the</p> <p>18 circumstances.</p> <p>19 Q. So there is a circumstance</p> <p>20 where a letter promising not to do it</p> <p>21 again is sufficient, in the Henry Schein</p> <p>22 suspicious order monitoring system?</p> <p>23 There is a circumstance where that would</p> <p>24 be fine?</p> | <p style="text-align: right;">Page 404</p> <p>1 1st, 2012. Hi, Craig, we never reported</p> <p>2 to DEA. It was part of the proactive</p> <p>3 process. I can simply reinstate the</p> <p>4 customer.</p> <p>5 If you would agree with me</p> <p>6 that a customer that shows up as a pend</p> <p>7 or a suspicious order not by algorithm,</p> <p>8 but by Know Your Customer criteria, that</p> <p>9 once it is determined that there is a</p> <p>10 concern that this could be a suspicious</p> <p>11 order, that the obligation of Henry</p> <p>12 Schein is to report the pend or</p> <p>13 suspicious order, as you defined it, in</p> <p>14 2012?</p> <p>15 MR. JONES: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: If there was a</p> <p>18 pend, we would have reported it.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. And you would agree with me</p> <p>21 that the Know Your Customer process,</p> <p>22 proactive process at Schein, by itself,</p> <p>23 can produce a pend, correct?</p> <p>24 A. I'm sorry, can you restate</p> |
| <p style="text-align: right;">Page 403</p> <p>1 A. There may be.</p> <p>2 Q. And it would be okay that</p> <p>3 just if the doctor wrote and said, I</p> <p>4 promise, I won't do it again?</p> <p>5 A. There may be. It depends on</p> <p>6 the circumstances.</p> <p>7 Q. Is that true today, too? Is</p> <p>8 that true today, too, not just in 2012?</p> <p>9 A. That a letter --</p> <p>10 MR. JONES: Object to the</p> <p>11 form.</p> <p>12 BY MR. MIGLIORI:</p> <p>13 Q. That a letter would be</p> <p>14 enough; that a letter would be consistent</p> <p>15 with the standard operating procedures of</p> <p>16 Henry Schein, Inc. for the suspicious</p> <p>17 order monitoring system in place today?</p> <p>18 A. Generally, no.</p> <p>19 Q. All right. Craig wrote back</p> <p>20 to you and said, Shaun, I'm okay with</p> <p>21 reinstating. Do you think we should send</p> <p>22 this to DEA as a follow-up to our</p> <p>23 reporting letter?</p> <p>24 You wrote back on February</p> | <p style="text-align: right;">Page 405</p> <p>1 that?</p> <p>2 Q. Sure.</p> <p>3 By definition, this is a</p> <p>4 pend, right?</p> <p>5 MR. JONES: Objection.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. You received a bit of</p> <p>8 information from a doctor about</p> <p>9 self-medicating.</p> <p>10 That, by definition, in</p> <p>11 2012, is a pend, correct, requiring</p> <p>12 further due diligence? Correct?</p> <p>13 MR. JONES: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: I don't know</p> <p>16 if there was an order.</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. That's not my question.</p> <p>19 Forget the letter. Forget the date.</p> <p>20 Today, if you find out that</p> <p>21 a doctor is self-medicating, that</p> <p>22 requires further due diligence, correct?</p> <p>23 A. Correct.</p> <p>24 Q. You'd call that a pend in</p> |

Page 406

1 the Henry Schein system, correct?
 2 MR. JONES: Object to the
 3 form. Misstates prior testimony.
 4 THE WITNESS: Not
 5 necessarily, no.
 6 BY MR. MIGLIORI:
 7 Q. You'd call it -- it's
 8 something that requires further due
 9 diligence, right?
 10 A. Yes.
 11 Q. So that further due
 12 diligence necessarily, in the Henry
 13 Schein system, prevents you from shipping
 14 until you resolve the issue, correct?
 15 A. Yes.
 16 Q. All right. So when you
 17 learn in 2012 that a doctor is
 18 self-medicating, you do the due
 19 diligence, as you report in this e-mail,
 20 to make sure that this isn't going to be
 21 a diverted supply of controlled
 22 substance, correct?
 23 MR. JONES: Object to the
 24 form. Asked and answered.

Page 407

1 BY MR. MIGLIORI:
 2 Q. Correct?
 3 MR. JONES: Outside the
 4 scope.
 5 BY MR. MIGLIORI:
 6 Q. Correct?
 7 A. Yes.
 8 Q. And so by that definition,
 9 this should have been reported at least,
 10 in the Henry Schein system, as a pend,
 11 correct?
 12 MR. JONES: Objection.
 13 Form. Asked and answered.
 14 BY MR. MIGLIORI:
 15 Q. Correct?
 16 A. If there was a pend, it
 17 would have been reported.
 18 Q. Knowing that a doctor was
 19 self-medicating produces at least a pend
 20 in the Schein monitoring system, correct?
 21 MR. JONES: Objection.
 22 Asked and answered three times.
 23 MR. MIGLIORI: No, it's
 24 three different ways. I'm just

Page 408

1 trying to get the last one.
 2 BY MR. MIGLIORI:
 3 Q. Correct?
 4 MR. JONES: Same objection.
 5 BY MR. MIGLIORI:
 6 Q. Correct?
 7 A. I'm not sure I understand
 8 the question.
 9 Q. A doctor that's
 10 self-medicating is a red flag, correct?
 11 MR. JONES: Object to the
 12 form.
 13 THE WITNESS: Potentially,
 14 yes.
 15 BY MR. MIGLIORI:
 16 Q. Is there any instance where
 17 a doctor who is self-medicating with a
 18 controlled substance is not a red flag?
 19 A. If it was prescribed.
 20 Q. By himself, or herself?
 21 A. No, by the doctor.
 22 Q. If a doctor is
 23 self-medicating, as is described right
 24 here -- which means prescribed to

Page 409

1 himself, correct?
 2 A. Correct.
 3 Q. -- that is a pend red flag
 4 in the Henry Schein system today,
 5 correct?
 6 A. So I think maybe you're
 7 confusing the pend. So it's not a pend,
 8 because there's no order.
 9 Q. All right.
 10 Does the file, like we saw
 11 in the last exhibit where it says zero
 12 pend on all orders, does something happen
 13 in the system, when you have a proactive
 14 Know Your Customer bit of information
 15 like this, does something happen in your
 16 system that tells people, don't do
 17 anything until we do our due diligence?
 18 A. Yeah, we may flag the
 19 account. Yes.
 20 Q. Flag the account, that's the
 21 term we'll use.
 22 You'll agree with me that a
 23 doctor who self-medicates in 2012 will
 24 cause you, once you learn of it, to flag

Page 410

1 the account, correct?
2 A. Correct.
3 Q. And that flagging of the
4 account prevents any shipment to that
5 doctor until that flag is resolved,
6 correct?
7 A. Correct.
8 Q. And whether you call it a
9 flag, or anything else, that information
10 is reportable to the DEA, correct?
11 MR. JONES: Object to the
12 form.
13 BY MR. MIGLIORI:
14 Q. Even Craig asked you, do we
15 report this to the DEA?
16 A. As a -- he asked if we
17 should send a follow-up to the DEA saying
18 that we cleared it --
19 Q. Right.
20 A. -- was the question.
21 Q. Do you have to report that
22 you're reinstating a doctor -- when you
23 use the word "reinstating," it suggests
24 to me that the doctor had been suspended

Page 411

1 or pended or something.
2 Am I wrong to assume that?
3 A. No, it would have been -- it
4 would have been placed on hold.
5 Q. All right. Do you place --
6 do you tell the DEA when you have to
7 place a doctor on hold?
8 A. Not necessarily.
9 Q. All right. And it appears
10 from that document that you're looking at
11 that, in this instance, you didn't notify
12 the DEA, correct?
13 A. Correct.
14 Q. Exhibit-25.
15 - - -
16 (Whereupon, Exhibit
17 Schein-Abreu-25,
18 HSI-MDL-00397293-294, was marked
19 for identification.)
20 - - -
21 BY MR. MIGLIORI:

[REDACTED]

Page 412

1 [REDACTED]
2 [REDACTED]
3 Have you seen this document
4 before?
5 A. I don't believe so, no.
6 Q. And it's signed by Sergio
7 Tejeda, the director of regulatory
8 operations and compliance.
9 We've been talking about him
10 all day, correct?
11 A. Yes.

[REDACTED]

24 First off, do you know what

Page 413

1 the six distribution centers are that are
2 licensed to sell prescription drugs in
3 Ohio? Do you know which ones they are?
4 A. Yeah. We have six in the
5 U.S.
6 Q. Do you know where they are
7 located? Can you give me the names by
8 city?
9 A. Yes.
10 Q. What are they?
11 A. So it would be Indianapolis;
12 Jacksonville; Grapevine, Texas; Reno,
13 Nevada; and Denver, Pennsylvania; and
14 Bastion, Virginia.
15 Q. And all six of those
16 distribution centers are subject to the
17 suspicious order monitoring systems that
18 we've been talking about all day,
19 correct?
20 A. Yes.
21 Q. That is, whatever we've been
22 talking about applies to all the
23 distribution centers that supply to the
24 state of Ohio, correct?

| | |
|--|--|
| <p style="text-align: right;">Page 414</p> <p>1 A. Yes.</p> <p>2 Q. Is there any basis for why</p> <p>3 one distribution center versus another</p> <p>4 would be shipping into the state?</p> <p>5 A. It would just be</p> <p>6 availability of product.</p> <p>7 Q. Supply?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Mr. Tejeda goes on to</p> <p>10 say, The purpose of this letter is to</p> <p>11 notify the Ohio Board of Pharmacy of an</p> <p>12 issue that was recently discovered while</p> <p>13 conducting a routine internal review of</p> <p>14 our operations. During the course of our</p> <p>15 internal review, we realized that Henry</p> <p>16 Schein, Incorporated, has been</p> <p>17 underreporting sales of controlled</p> <p>18 substances to the Ohio Board of Pharmacy</p> <p>19 as required by the state's prescription</p> <p>20 monitoring program, PMP. The reports</p> <p>21 included sales of products that contained</p> <p>22 Tramadol and carisoprodol, but did not</p> <p>23 include the sale of other controlled</p> <p>24 substances. We believe the</p> | <p style="text-align: right;">Page 416</p> <p>1 Do you recall that you had</p> <p>2 only been, at Schein, reporting to the</p> <p>3 Ohio Board of Pharmacy, as of that date,</p> <p>4 Tramadol and carisoprodol?</p> <p>5 A. No.</p> <p>6 Q. Would it be fair to say that</p> <p>7 based on this -- strike that.</p> <p>8 Do you recall this letter?</p> <p>9 A. No.</p> <p>10 Q. Do you recall this instance?</p> <p>11 A. No.</p> <p>12 Q. Were you in any way, to your</p> <p>13 knowledge, made aware of this</p> <p>14 underreporting to the state of Ohio?</p> <p>15 A. I may have been, but I don't</p> <p>16 recall.</p> <p>17 Q. And based on this, the only</p> <p>18 controlled substances being reported to</p> <p>19 Ohio were those two morphine equivalents,</p> <p>20 Tramadol and carisoprodol, correct?</p> <p>21 A. That's what the letter says,</p> <p>22 yes.</p> <p>23 Q. That leaves out every other</p> <p>24 Schedule II drug, like hydrocodone, that</p> |
| <p style="text-align: right;">Page 415</p> <p>1 underreporting error was due to</p> <p>2 misinterpretation and/or miscommunication</p> <p>3 of the state requirement that happened</p> <p>4 during the implementation of our computer</p> <p>5 automated reporting system.</p> <p>6 Do you recall -- now, in</p> <p>7 November of 2012, you were, in fact, part</p> <p>8 of the verification team and the SOM</p> <p>9 program, correct?</p> <p>10 A. Correct.</p> <p>11 Q. At this point, the enhanced</p> <p>12 SOM program is in place and implemented,</p> <p>13 correct?</p> <p>14 A. The one from 2009 you're</p> <p>15 referring to?</p> <p>16 Q. The one that Buzzeo helped</p> <p>17 to design and then launched through</p> <p>18 October of 2011, correct?</p> <p>19 A. I mean, it's been enhanced,</p> <p>20 you know, up until present day.</p> <p>21 Q. But it's post Buzzeo</p> <p>22 review --</p> <p>23 A. Yes.</p> <p>24 Q. -- correct? All right.</p> | <p style="text-align: right;">Page 417</p> <p>1 we discussed earlier, correct?</p> <p>2 A. Correct.</p> <p>3 Q. So even at this stage, in</p> <p>4 November of 2012, all 11,500 pills</p> <p>5 supplied to Dr. Heim were not reported to</p> <p>6 the Ohio Board of Pharmacy, correct?</p> <p>7 A. Yes.</p> <p>8 MR. JONES: Objection.</p> <p>9 Form. Beyond the scope. Calls</p> <p>10 for speculation.</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. I'll get to the connection</p> <p>13 to it.</p> <p>14 You would agree that the</p> <p>15 11,500 doses of hydrocodone to Dr. Heim</p> <p>16 were not reported to the Ohio Board of</p> <p>17 Pharmacy as of November 2012, correct?</p> <p>18 MR. JONES: Same objections.</p> <p>19 THE WITNESS: Based on the</p> <p>20 letter, I would say yes.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Okay. And that would be in</p> <p>23 violation of the Ohio requirements for</p> <p>24 reporting transactions, correct?</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 418</p> <p>1 MR. JONES: Objection. 2 Calls for speculation. Form. 3 Outside the scope. 4 THE WITNESS: I'm not sure 5 if it's a violation. 6 BY MR. MIGLIORI: 7 Q. I showed you the Ohio 8 regulations as your own company 9 incorporated them into the standard 10 operating procedures. 11 Do you recall that earlier 12 today? 13 A. Yes. 14 Q. And you'll agree that the 15 Ohio Board of Pharmacy is -- requires 16 that you report transactional data to 17 Ohio just like you do to the DEA, 18 correct? 19 MR. JONES: Object to the 20 form. Calls for a legal 21 conclusion. Outside the scope. 22 THE WITNESS: Right. 23 BY MR. MIGLIORI: 24 Q. So to the extent that the</p> | <p style="text-align: right;">Page 420</p> <p>1 information which was mistakenly omitted 2 for the previous two years. See 3 enclosures. 4 Have you ever seen that list 5 that was provided to the Ohio Board of 6 Pharmacy with this letter, November of 7 2012? 8 A. No. 9 Q. Do you know if that list 10 contains any of the shipments of Schedule 11 II drugs into Summit County, Ohio? 12 A. I've never seen the list. 13 Q. So you wouldn't know whether 14 or not it also contained shipments into 15 Cuyahoga County, correct? 16 A. I've never seen it. 17 Q. You haven't seen it. 18 HSI would like to ensure the 19 Ohio Board of Pharmacy that our 20 electronic reporting process has been 21 modified so that future reports, 22 including the current reporting period, 23 will include all required information. 24 Would you agree with me that</p> |
| <p style="text-align: right;">Page 419</p> <p>1 letter is correct, that was being sent by 2 Sergio Tejeda to the Ohio Board of 3 Pharmacy, those pills that we talked 4 about today to Dr. Heim would not be part 5 of any of the reporting done to the Ohio 6 Board of Pharmacy as of November 2012, 7 based on this letter, correct? 8 MR. JONES: Objection. 9 Calls for speculation. Form. 10 Outside the scope. 11 BY MR. MIGLIORI: 12 Q. Correct? 13 A. Yes. 14 Q. To date, Henry Schein, Inc., 15 has consistently filed the reports on a 16 timely basis as required by the PMP. And 17 prior to the discovery of this issue, HSI 18 was not aware that the reports were 19 incomplete. Please be reassured that 20 there was never any intent to avoid or 21 circumvent the company's obligation under 22 Ohio state law, and as a fact of good 23 faith, Henry Schein, Incorporated is 24 providing all controlled substance sales</p> | <p style="text-align: right;">Page 421</p> <p>1 all required information, under the Act 2 in Ohio, would include all shipments into 3 Ohio of Schedule II drugs? 4 MR. JONES: Object to the 5 form. Outside the scope. Calls 6 for a legal conclusion. 7 BY MR. MIGLIORI: 8 Q. Would you agree with that? 9 A. Can you restate? 10 Q. Yes. 11 Would you agree with me that 12 this process that's been modified in the 13 electronic reporting system would now 14 include, in order to be current and 15 compliant with Ohio law, would include 16 all controlled substances? 17 MR. JONES: Same objections. 18 THE WITNESS: If that's what 19 the law called for. 20 BY MR. MIGLIORI: 21 Q. The suspicious order 22 monitoring program that you're here to 23 talk about includes state obligations to 24 report as well, right? We just saw that</p> |

Page 422


1 in the policies and procedures.
2 MR. JONES: Object to form.
3 Overly broad as to time.
4 BY MR. MIGLIORI:
5 Q. Correct?
6 A. Yes.
7 Q. All right. And we saw that
8 Ohio -- and Mr. Tejeda states it right
9 here, under Ohio state law, it is
10 required to report to the board in Ohio
11 all controlled substances distributed and
12 sold in the state of Ohio, correct?
13 A. Yes.
14 Q. Failure to report, prior to
15 November of 2012, the transactions of all
16 controlled substances in the state of
17 Ohio would be a failure to comply with
18 that provision, correct?
19 MR. JONES: Object to the
20 form. Outside the scope. Calls
21 for legal conclusion.
22 BY MR. MIGLIORI:
23 Q. Correct?
24 A. I'm not sure of the legal

Page 423


1 implication.
2 Q. If you don't report and
3 you're required to report, you would
4 agree it's not compliant, correct?
5 MR. JONES: Object to the
6 form. Outside the scope. Overly
7 broad as to time. Vague as to
8 time. Outside -- calls for a
9 legal conclusion.
10 BY MR. MIGLIORI:
11 Q. Correct?
12 A. Sorry?
13 Q. If you're obligated to
14 report, you don't do it, that's not
15 compliant, correct?
16 A. You're not fulfilling the
17 requests.
18 MR. JONES: Same objection.
19 BY MR. MIGLIORI:
20 Q. Which means you're not
21 compliant with the request, right?
22 A. Yes.
23 MR. MIGLIORI: Exhibit-26.
24 Two more documents and we're done.

Page 424

1 - - -
2 (Whereupon, Exhibit
3 Schein-Abreu-26, HSI-MDL-00039634,
4 was marked for identification.)
5 - - -
6 BY MR. MIGLIORI:



Page 425



5 Now, Beverly Butcher is in
6 regulatory, correct?
7 A. Correct.
8 Q. That's part of Sergio's
9 department, correct?
10 A. Yes.
11 Q. She did a site visit on Dr.
12 Spendle, and the report restricting him
13 from the purchase of controlled
14 substances was put on the M drive.
15 Is that part of the JDE
16 system?
17 A. No, that's a separate --
18 Q. What is that?
19 A. It's a local network drive.
20 Q. Why would the report be
21 placed on the M drive versus the JDE
22 system?
23 A. Eventually it will get
24 placed in both.

| | |
|---|--|
| <p style="text-align: right;">Page 426</p> <p>1 Q. Which is the official 2 repository?</p> <p>3 A. You can argue they both are, 4 but JDE captures everything.</p> <p>5 Q. When you go -- when the DOJ 6 or DEA comes to you and says, we need 7 information, do you go to the M drive or 8 do you go to the JDE, or do you go to 9 both?</p> <p>10 A. Usually both.</p> <p>11 Q. So if I needed due diligence 12 on Dr. Heim, might there be something on 13 the M drive that's not contained in that 14 JDE due diligence file?</p> <p>15 A. Potentially.</p> <p>16 Q. Did you look at the M drive 17 in preparing or assisting in the 18 production of documents in this case, as 19 we discussed earlier today?</p> <p>20 A. Not me personally. But 21 somebody did check it, yes.</p> <p>22 Q. At your direction?</p> <p>23 A. Yes.</p> <p>24 Q. So the doctor gets put on</p> | <p style="text-align: right;">Page 428</p> <p>1 or I should say Tina writes in this 2 e-mail to Kathleen, on February 27th, 3 2015, that she just found out from 4 Shaun -- that would be you in 5 verifications, correct?</p> <p>6 A. Yes.</p> <p>7 Q. -- that verifications 8 accidentally released his hydrocodone 9 order on February 23rd. Please do not 10 send a suspicious order letter to the 11 DEA. Thanks.</p> <p>12 Now, I want to understand 13 the process of the verifications 14 department releasing hydrocodone in a 15 pended order.</p> <p>16 How is it that verifications 17 is involved with releasing a hydrocodone 18 order in the Henry Schein system in 2015?</p> <p>19 A. You're asking if we were 20 able to release it?</p> <p>21 Q. How is it that that happens? 22 Is that part of the normal process, that 23 verifications would release a hydrocodone 24 order?</p> |
| <p style="text-align: right;">Page 427</p> <p>1 restriction for the purpose of controlled 2 substances. Steffanie-Oak writes to 3 Kathleen Reid -- who is Kathleen Reid at 4 this point?</p> <p>5 A. She's a member of 6 regulatory.</p> <p>7 Q. So Tina Steffanie-Oak writes 8 to Kathleen and says, I just found out 9 from Shaun that verifications 10 accidentally released his hydrocodone 11 order on February 23rd. Please do not 12 send a suspicious order letter to the 13 DEA. Thanks.</p> <p>14 Does verifications release 15 hydrocodone that is pended as a practice?</p> <p>16 A. That is --</p> <p>17 MR. JONES: Objection. 18 Form. 19 - - - 20 (Whereupon, a discussion off 21 the record occurred.) 22 - - - 23 BY MR. MIGLIORI: 24 Q. You write in this e-mail --</p> | <p style="text-align: right;">Page 429</p> <p>1 A. Yes.</p> <p>2 Q. Is that the normal release 3 process?</p> <p>4 A. Based on existing due 5 diligence, yes.</p> <p>6 Q. So let's say the order 7 didn't get pended or flagged in any way. 8 The doctor makes an order, 9 would verifications be involved in the 10 order at all?</p> <p>11 A. If the order wasn't flagged?</p> <p>12 Q. Right.</p> <p>13 A. So it didn't pend?</p> <p>14 Q. Right. The order doesn't 15 pend.</p> <p>16 Would verifications have any 17 role whatsoever, in a normal order that's 18 not pended or flagged, in releasing the 19 order to the customer?</p> <p>20 A. Not unless --</p> <p>21 MR. JONES: Objection. 22 Form. 23 THE WITNESS: Not unless it 24 was for a license.</p> |

| | |
|--|--|
| <p style="text-align: right;">Page 430</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. Okay. But that's still a</p> <p>3 flag, that is, it would be flagged for a</p> <p>4 license, correct?</p> <p>5 A. Correct.</p> <p>6 Q. So in order for</p> <p>7 verifications, as represented in this</p> <p>8 e-mail, to be in a position to even</p> <p>9 release the hydrocodone, somehow this</p> <p>10 order was pended or flagged for</p> <p>11 verifications, correct?</p> <p>12 A. That's what it appears, yes.</p> <p>13 Q. And based on this e-mail,</p> <p>14 according to Tina, somebody in the</p> <p>15 verifications department released the</p> <p>16 pend, released the flag, allowed the</p> <p>17 order to get filled; is that accurate?</p> <p>18 A. Yes.</p> <p>19 Q. And as we discussed earlier,</p> <p>20 in e-mail, this is actually a doctor who</p> <p>21 ordered who has been restricted from the</p> <p>22 purchase of controlled substances,</p> <p>23 correct?</p> <p>24 A. As a result of the site</p> | <p style="text-align: right;">Page 432</p> <p>1 reported -- strike that.</p> <p>2 On February 27th, 2005, in</p> <p>3 response to the statement that this</p> <p>4 doctor has been restricted from the</p> <p>5 purchase of controlled substances,</p> <p>6 Steffanie Tina Oak writes that this</p> <p>7 doctor has a current open order and will</p> <p>8 need to be reported to the DEA.</p> <p>9 That's what Tina said on</p> <p>10 that date, correct?</p> <p>11 A. Yes.</p> <p>12 Q. You have no reason to</p> <p>13 dispute that a doctor who is visited on</p> <p>14 site and it's determined needs to be</p> <p>15 restricted from the purchase of</p> <p>16 controlled substances would be reported</p> <p>17 to the DEA, correct?</p> <p>18 MR. JONES: Objection.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. That is part of the</p> <p>21 suspicious order monitoring system at</p> <p>22 Schein in 2015, correct?</p> <p>23 MR. JONES: Objection to</p> <p>24 form.</p> |
| <p style="text-align: right;">Page 431</p> <p>1 visit.</p> <p>2 Q. As a result of a site visit.</p> <p>3 So you have a site visit and</p> <p>4 you make a decision to restrict his</p> <p>5 purchase of controlled substances, at</p> <p>6 Henry Schein, correct?</p> <p>7 A. If -- after the site visit.</p> <p>8 Q. The site visit would only be</p> <p>9 triggered by some kind of flag or pend,</p> <p>10 correct?</p> <p>11 A. Maybe, not necessarily. It</p> <p>12 could have been -- it could have been</p> <p>13 triggered as a result of our due</p> <p>14 diligence review.</p> <p>15 Q. All right. In any event, in</p> <p>16 February, February 27th, a site review is</p> <p>17 done and they decide, yes, in fact, we</p> <p>18 need to restrict this doctor's use of</p> <p>19 controlled substances, correct?</p> <p>20 A. Yes.</p> <p>21 Q. That same day, Tina</p> <p>22 Steffanie-Oak says that there is a</p> <p>23 current open order, and Schein will need</p> <p>24 to reopen -- I'm sorry, will need to be</p> | <p style="text-align: right;">Page 433</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. You have to let the DEA know</p> <p>4 when a doctor can't get drugs, correct,</p> <p>5 controlled substances?</p> <p>6 A. Yes.</p> <p>7 Q. In response to that, though,</p> <p>8 Tina Steffanie-Oak responds again and</p> <p>9 says, I just found out from Shaun that</p> <p>10 verifications -- your department --</p> <p>11 accidentally released the hydrocodone</p> <p>12 order four days earlier, on February</p> <p>13 23rd, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And Tina is instructing</p> <p>16 Kathleen Reid in regulatory, please do</p> <p>17 not send a suspicious order letter to the</p> <p>18 DEA.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall this</p> <p>22 happening?</p> <p>23 A. No.</p> <p>24 Q. That is not lawful, correct?</p> |

Page 434

1 MR. JONES: Object to the
2 form. Calls for a legal
3 conclusion. Outside the scope.

4 BY MR. MIGLIORI:

5 Q. That's not lawful, is it?

6 MR. JONES: Same objections.

7 THE WITNESS: No.

8 BY MR. MIGLIORI:

9 Q. Do you know if that was
10 reported to the DEA or not?

11 A. No, I'm not sure.

12 Q. Exhibit-27.

13 - - -

14 (Whereupon, Exhibit
15 Schein-Abreu-27,
16 HSI-MDL-00156897-899, was marked
17 for identification.)

18 - - -

19 BY MR. MIGLIORI:

20 Q. This is Bates Number
21 HSI156897.

22 Have you ever dealt with
23 William Crawford at DOJ?

24 A. Not to my recollection.

Page 435

1 Q. Doug Crawford, which is
2 William Doug Crawford, is from the DEA,
3 in the tactical diversion squad from
4 Columbus, Ohio.

Page 436

[REDACTED]

Page 437

3 Q. Do you know that when you
4 look back in the Ohio -- I'm sorry, when
5 you look back in the Henry Schein system
6 for pends or for suspicious orders, do
7 you know whether or not Dr. Mason was one
8 of the three pends that you identified?

9 A. No, I'm not sure.

10 Q. This was in 2016.

11 So this would be information
12 that's in the Henry Schein system, that
13 is, this would not be purged information,
14 correct?

15 A. Correct.

16 Q. And so if there were a due
17 diligence file -- strike that.

18 By 2016, you were well into
19 your proactive program of completing due
20 diligence files for all of your
21 customers, correct?

22 A. I would say yes.

23 Q. And in that proactive
24 process of due diligence, did you go and

| | |
|---|--|
| <p style="text-align: right;">Page 438</p> <p>1 look at doctors' reporting history to the</p> <p>2 Ohio Board of Pharmacy where, in a state</p> <p>3 like Ohio, reporting was a requirement?</p> <p>4 Is that part of the due</p> <p>5 diligence proactive process at Henry</p> <p>6 Schein?</p> <p>7 MR. JONES: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: We don't have</p> <p>10 access to that information.</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. Well, you certainly have the</p> <p>13 ability to write to the Ohio Board of</p> <p>14 Pharmacy to make sure they have a</p> <p>15 license? You had been doing that all</p> <p>16 along, correct?</p> <p>17 A. We've been verifying it on</p> <p>18 the web.</p> <p>19 Q. Okay. And could you have --</p> <p>20 or did you ever go to the Ohio Board of</p> <p>21 Pharmacy to find out directly from them</p> <p>22 of any reporting history that any doctor</p> <p>23 would have in the state of Ohio?</p> <p>24 A. I don't believe so. I'm not</p> | <p style="text-align: right;">Page 440</p> <p>1 A. Yes.</p> <p>2 Q. You would agree with me that</p> <p>3 as part of your Know Your Customer</p> <p>4 requirements, nationally and in Ohio,</p> <p>5 knowing whether or not a physician is</p> <p>6 self-medicating is part of your</p> <p>7 obligation at Schein, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And if on the magnitude of</p> <p>10 10,000 hydrocodone pills had been sold to</p> <p>11 him by your company between 2012 and 2016</p> <p>12 and he used them for his own personal</p> <p>13 use, that would be, in no uncertain</p> <p>14 terms, a diversion of those pills,</p> <p>15 correct?</p> <p>16 MR. JONES: Objection.</p> <p>17 Form. Lack of foundation.</p> <p>18 Mischaracterizes Exhibit-27.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. Correct?</p> <p>21 A. Well, we don't --</p> <p>22 MR. JONES: Are you</p> <p>23 representing that all 10,000</p> <p>24 hydrocodone referenced in</p> |
| <p style="text-align: right;">Page 439</p> <p>1 sure they would provide it.</p> <p>2 Q. And if you at Schein</p> <p>3 determined that Dr. Mason had an unusual</p> <p>4 ordering pattern or anything was</p> <p>5 suspicious in the 10,000 hydrocodones he</p> <p>6 ordered between 2012 and 2016, you would</p> <p>7 have a file on that, right?</p> <p>8 MR. JONES: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: I don't know</p> <p>11 that we sold him 10,000 units of</p> <p>12 hydrocodone.</p> <p>13 BY MR. MIGLIORI:</p> <p>14 Q. Well, it said that a few</p> <p>15 days later, The state pharmacy board went</p> <p>16 to inspect his records, at which time Dr.</p> <p>17 Mason admitted to them that he lied to me</p> <p>18 and had no dispensing records because he</p> <p>19 was addicted to hydrocodone and had been</p> <p>20 ordering hydrocodone from your company</p> <p>21 for his personal use.</p> <p>22 You would agree with me that</p> <p>23 that is an unlawful use, by Dr. Mason, of</p> <p>24 hydrocodone, correct?</p> | <p style="text-align: right;">Page 441</p> <p>1 Exhibit-27 came from Henry Schein?</p> <p>2 MR. MIGLIORI: I'm</p> <p>3 representing that that's what is</p> <p>4 said by the doctor. I have no</p> <p>5 idea if it's true.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. I'm asking you, if that's</p> <p>8 true, if what's written in this e-mail is</p> <p>9 true, you would agree with me,</p> <p>10 unequivocally, that the pills sold by</p> <p>11 Henry Schein to this doctor for his own</p> <p>12 personal use is, by definition,</p> <p>13 diversion?</p> <p>14 MR. JONES: Objection.</p> <p>15 Form. Misstates the document.</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. Correct?</p> <p>18 MR. JONES: Outside the</p> <p>19 scope.</p> <p>20 THE WITNESS: I don't see</p> <p>21 that it says that Henry Schein</p> <p>22 sold him 10,000 pills of</p> <p>23 hydrocodone.</p> <p>24 BY MR. MIGLIORI:</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 442</p> <p>1 Q. My last question didn't say 2 that either. Your counsel raised that 3 objection, and I accept it, okay. 4 Let me focus on the new 5 question, okay. 6 The new question is, if Dr. 7 Mason purchased hydrocodone pills from 8 Schein between -- any time up until 9 January 25th of 2016, and those pills 10 weren't used for patients but were used 11 for his own personal use, by definition, 12 those pills sold and supplied to him by 13 Henry Schein were diverted, correct? 14 MR. JONES: Objection. 15 Form. Lack of foundation. Calls 16 for speculation. 17 BY MR. MIGLIORI: 18 Q. Correct? 19 A. Yes. 20 Q. And the whole point of the 21 suspicious order monitoring program and 22 the Know Your Customer due diligence 23 requirements is to prevent diversion; 24 that's the stated purpose in the Act,</p> | <p style="text-align: right;">Page 444</p> <p>1 MR. MIGLIORI: On the 2 bottom -- what's the number, HSI? 3 THE WITNESS: 208. 4 MR. MIGLIORI: 208? 5 THE WITNESS: Yes. 6 BY MR. MIGLIORI: 7 Q. It's a standard operating 8 procedure dated March of 2018 for 9 suspicious order monitoring systems. 10 Have you seen that? 11 A. Yes. 12 Q. My only question to you 13 about it is, does that reflect the 14 current -- most current changes to Henry 15 Schein's suspicious order monitoring 16 system as published in the standard 17 operating procedures? Have there been 18 revisions since that date? 19 A. Since this date, I don't 20 believe so. 21 Q. Okay. 22 MR. MIGLIORI: That's all I 23 have. I appreciate your time. If 24 it proves that there is a</p> |
| <p style="text-align: right;">Page 443</p> <p>1 correct? 2 A. Correct. 3 Q. I promise you this is the 4 last one, because I want to make sure I 5 understand where we are today. Number 6 28. 7 - - - 8 (Whereupon, Exhibit 9 Schein-Abreu-28, 10 HSI-MDL-000009208-218, was marked 11 for identification.) 12 - - - 13 BY MR. MIGLIORI: 14 Q. And you know what, there's 15 only one copy of it. So I'm going to -- 16 I am going to give it to you. You can 17 read it. Your counsel can look at it. I 18 don't even need to see it. 19 My question to you is, it's 20 dated -- if you can read that, for my 21 counsel on the table, if you can read the 22 Bates number, I would appreciate it. 23 MR. WICKS: Describe what it 24 is.</p> | <p style="text-align: right;">Page 445</p> <p>1 subsequent one -- I don't have one 2 that is subsequent to that, but if 3 it proves -- 4 MR. JONES: It's just that 5 you went over an earlier SOP, a 6 different title, but it's more 7 recently dated. 8 MR. MIGLIORI: Oh, it is? 9 Maybe that's why I didn't have it. 10 Because I already used it. 11 What's that date? 12 MR. JONES: May 31st, 2018. 13 THE WITNESS: It's the same 14 document? 15 MR. JONES: It's not the 16 same document. 17 MR. MIGLIORI: But it's a 18 revision to the SOP. 19 MR. JONES: They're 20 different SOPs, though. 21 MR. MIGLIORI: What's the 22 exhibit number on that, please, 23 the one that I did earlier? Do 24 you know?</p> |

| | |
|---|---|
| <p style="text-align: right;">Page 446</p> <p>1 MR. JONES: This is the one 2 that I didn't write down the 3 exhibit number on. 4 THE WITNESS: Maybe I have 5 it. 6 MR. WICKS: 7, I think. 7 MR. MIGLIORI: 7. 8 MR. JONES: Yes. That makes 9 sense, because that's the one I 10 was missing. 11 BY MR. MIGLIORI: 12 Q. So my question is this, 13 simply, Mr. Abreu, if you look at 14 Exhibit-7 and this last exhibit I gave 15 you, Exhibit-28, to your knowledge, as 16 you sit here today, do those reflect the 17 last revisions to Henry Schein's standard 18 operating procedures for suspicious order 19 monitoring systems, to the best of your 20 knowledge? 21 A. What was the other one? 22 Q. Exhibit 7 and 28. One is 23 dated May of 2018 -- 24 A. I don't know. I don't see</p> | <p style="text-align: right;">Page 448</p> <p>1 Q. The outside consultants that 2 consult on this, do they consult on 3 setting the maintenance of the 4 algorithms? 5 A. Yes. 6 Q. And which outside 7 consultants are currently doing that? 8 A. The most recent was Buzzeo. 9 Q. And is the data associated 10 with those thresholds housed inside Henry 11 Schein? 12 A. Yes. 13 Q. And are you involved, 14 day-to-day, with the revision or 15 refinement of those thresholds? 16 A. Yes. 17 Q. In what capacity? How do 18 you participate in that? 19 A. Just periodic reviews of 20 thresholds. 21 Q. And is that now based on 22 individual customer purchasing history? 23 A. Yes. 24 Q. Okay. And I'm sorry if you</p> |
| <p style="text-align: right;">Page 447</p> <p>1 it. Hold on. 2 Q. And one is March of 2018. 3 It will probably be closer to the bottom, 4 if it's Number 7. 5 A. Controlled substance 6 monitoring reporting. 7 Okay. I would say the 8 answer is, yes, it is the most current. 9 Q. So, currently, the system is 10 entirely -- strike that. 11 Is there any outside vendor 12 that is currently operating the 13 algorithms for suspicious order 14 monitoring at Henry Schein? 15 A. Operating? 16 MR. JONES: Objection. 17 Form. 18 BY MR. MIGLIORI: 19 Q. Is the platform for the 20 current suspicious order monitoring 21 program at Henry Schein managed entirely 22 in-house? 23 A. Yes, with outside 24 consultants.</p> | <p style="text-align: right;">Page 449</p> <p>1 said this before. 2 But when did that begin that 3 you transitioned over to individual 4 customer purchasing history to set 5 thresholds? 6 A. It was some time in 2017. 7 MR. MIGLIORI: Okay. That's 8 all I have. And I really 9 appreciate your time. 10 MR. JONES: I've got a few 11 questions. 12 Can we get Exhibit-17? 13 - - - 14 EXAMINATION 15 - - - 16 BY MR. JONES: 17 Q. Do you have Exhibit-17 in 18 front of you? Do you remember going over 19 that with plaintiffs' counsel? 20 A. Yes. 21 Q. Do you see where it says 22 "draft" at the top? 23 A. Yes. 24 Q. Do you know if there was</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 450</p> <p>1 ever a version circulated that was final?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. Do you know whether or not</p> <p>4 Henry Schein was given an opportunity to</p> <p>5 review or comment on Exhibit-17, the</p> <p>6 draft?</p> <p>7 A. No, I don't.</p> <p>8 Q. Do you know if any changes</p> <p>9 were made to Exhibit-17 between being a</p> <p>10 draft and being final?</p> <p>11 A. No.</p> <p>12 Q. Insofar as Henry Schein had</p> <p>13 opioid orders that were of unusual size</p> <p>14 or deviated substantially from a normal</p> <p>15 pattern or an unusual frequency, did</p> <p>16 those get reported to the DEA?</p> <p>17 A. Yes.</p> <p>18 Q. For what period of time?</p> <p>19 A. From early or mid 1990s</p> <p>20 until April 2015.</p> <p>21 Q. And in April 2015, that</p> <p>22 stopped?</p> <p>23 A. Yes.</p> <p>24 Q. Why?</p> | <p style="text-align: right;">Page 452</p> <p>1 A. They were sent monthly.</p> <p>2 Q. And did the DEA ever</p> <p>3 complain about receiving those reports on</p> <p>4 a monthly basis?</p> <p>5 A. No.</p> <p>6 Q. Did anybody tell you that</p> <p>7 no, we want those orders, the ones that</p> <p>8 are -- deviated substantially from normal</p> <p>9 pattern or of unusual size or unusual</p> <p>10 frequency, did anyone tell you, from DEA,</p> <p>11 that we want those in realtime?</p> <p>12 A. No.</p> <p>13 MR. MIGLIORI: Objection.</p> <p>14 BY MR. JONES:</p> <p>15 Q. You sent those reports of</p> <p>16 those orders regardless of whether or not</p> <p>17 you or anyone else labeled them</p> <p>18 suspicious, pended, or orders of</p> <p>19 interest?</p> <p>20 A. Correct.</p> <p>21 Q. And did you also include</p> <p>22 cancelled orders as well?</p> <p>23 A. Yes.</p> <p>24 Q. And how were those sent?</p> |
| <p style="text-align: right;">Page 451</p> <p>1 A. Because we received guidance</p> <p>2 from -- industry received guidance and</p> <p>3 based on feedback from DEA, they didn't</p> <p>4 want those pended order reports.</p> <p>5 They wanted orders that we</p> <p>6 deemed as truly suspicious as a result of</p> <p>7 our Know Your Customer investigations.</p> <p>8 Q. And so after you halted</p> <p>9 sending those monthly reports, did anyone</p> <p>10 from DEA complain?</p> <p>11 A. No.</p> <p>12 Q. Anybody object to you all</p> <p>13 stopping sending those reports?</p> <p>14 A. No.</p> <p>15 Q. Express any sort of concerns</p> <p>16 whatsoever to you or Henry Schein?</p> <p>17 MR. MIGLIORI: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. JONES:</p> <p>21 Q. Now, those orders -- or</p> <p>22 those reports that you sent from -- or</p> <p>23 Henry Schein sent from the mid 1990s up</p> <p>24 until 2015, were those sent in realtime?</p> | <p style="text-align: right;">Page 453</p> <p>1 A. They were sent monthly as</p> <p>2 well.</p> <p>3 Q. Is it fair to say that every</p> <p>4 month DEA had all of the information that</p> <p>5 Henry Schein had for all of its pended</p> <p>6 orders or cancelled orders?</p> <p>7 MR. MIGLIORI: Objection to</p> <p>8 form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. JONES:</p> <p>11 Q. And, again, I'm talking</p> <p>12 about that time period from the mid 1990s</p> <p>13 up until 2015.</p> <p>14 A. Yes.</p> <p>15 Q. Prior to when the Masters</p> <p>16 decision came out in the summer of 2017,</p> <p>17 when Henry Schein would investigate a</p> <p>18 pended order, if it determined that the</p> <p>19 order was, in fact, suspicious, what</p> <p>20 would Henry Schein do?</p> <p>21 A. We would report the order to</p> <p>22 DEA.</p> <p>23 Q. When?</p> <p>24 A. Immediately.</p> |

Page 454

1 Q. And upon determining that
2 the order was, in fact, suspicious, what
3 would you all do with that order?
4 A. We would cancel it.
5 MR. JONES: Thank you. Pass
6 the witness.
7 - - -
8 EXAMINATION
9 - - -
10 BY MR. MIGLIORI:
11 Q. Two questions.
12 You were asked whether or
13 not the DEA had all the information for
14 pended orders between the 1990s and 2015.
15 Do you remember answering
16 that question right now?
17 A. Yes.
18 Q. Through that entire time,
19 isn't it true that the system only
20 produced pended orders when it tripped
21 the size threshold in the system,
22 correct?
23 MR. JONES: Objection.
24 Form.

Page 455

1 THE WITNESS: It depends on
2 the year.
3 BY MR. MIGLIORI:
4 Q. Through 2011.
5 A. Through -- so from the '90s
6 up until 2009?
7 Q. 2009.
8 A. It would be based on size.
9 Q. So orders that today would
10 be considered pended because of
11 deviations in frequency and pattern
12 weren't deemed pended prior to 2009,
13 correct?
14 A. That's correct.
15 Q. And they weren't reported to
16 the DEA, correct?
17 A. They weren't pended.
18 Q. Right. But, by definition,
19 under the statute, which requires
20 identifying deviations in frequency and
21 pattern, not just size, they would have
22 been pended, correct?
23 A. If that was -- yes, if that
24 was the -- if the orders were pended,

Page 456

1 yes.
2 Q. That is, they should have
3 been pended, but under the system they
4 were not captured at Henry Schein, until
5 2009, correct?
6 MR. JONES: Objection.
7 BY MR. MIGLIORI:
8 Q. If they were deviations of
9 pattern or frequency, correct?
10 MR. JONES: Objection.
11 Form.
12 BY MR. MIGLIORI:
13 Q. Correct?
14 A. Correct.
15 Q. So they only got part of the
16 story for pended orders from the '90s to
17 2009, correct?
18 A. They got the orders based on
19 thresholds.
20 Q. On size only, correct?
21 A. On size only.
22 Q. Only part of what would now
23 be considered a pended order, correct?
24 A. Correct.

Page 457

1 MR. MIGLIORI: That's all I
2 have.
3 VIDEO TECHNICIAN: The time
4 is now 5:52 p.m. This concludes
5 today's deposition. We're going
6 off the record.
7 - - -
8 (Whereupon, the deposition
9 concluded at 5:52 p.m.)
10 - - -
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Page 458

1 CERTIFICATE
2
3
4 I HEREBY CERTIFY that the
5 witness was duly sworn by me and that the
6 deposition is a true record of the
7 testimony given by the witness.
8
9
10
11 Amanda Maslynsky-Miller
12 Certified Realtime Reporter
13 Dated: December 15, 2018
14
15
16
17 (The foregoing certification
18 of this transcript does not apply to any
19 reproduction of the same by any means,
20 unless under the direct control and/or
21 supervision of the certifying reporter.)
22
23
24

Page 459

1 INSTRUCTIONS TO WITNESS
2
3 Please read your deposition
4 over carefully and make any necessary
5 corrections. You should state the reason
6 in the appropriate space on the errata
7 sheet for any corrections that are made.
8 After doing so, please sign
9 the errata sheet and date it.
10 You are signing same subject
11 to the changes you have noted on the
12 errata sheet, which will be attached to
13 your deposition.
14 It is imperative that you
15 return the original errata sheet to the
16 deposing attorney within thirty (30) days
17 of receipt of the deposition transcript
18 by you. If you fail to do so, the
19 deposition transcript may be deemed to be
20 accurate and may be used in court.
21
22
23
24

Page 460

1 -----
2 E R R A T A
3 -----
4 PAGE LINE CHANGE
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____

Page 461

1 ACKNOWLEDGMENT OF DEPONENT
2
3 I, _____, do
4 hereby certify that I have read the
5 foregoing pages, 1 - 457, and that the
6 same is a correct transcription of the
7 answers given by me to the questions
8 therein propounded, except for the
9 corrections or changes in form or
10 substance, if any, noted in the attached
11 Errata Sheet.
12
13
14
15
16
17
18
19
20
21
22
23
24

SHAUN ABREU _____ DATE _____

Subscribed and sworn
to before me this _____
day of _____, 20 ____.

My commission expires: _____

Notary Public _____

| 1 | LAWYER'S NOTES | | |
|----|----------------|------|--|
| 2 | PAGE | LINE | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |
| 16 | | | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |